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SUMMARY OF NEWS.

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Church Establishment of England.

A religious establishment is no part of Christianity; it is only the means of increasing it—its authority is, therefore, founded in its utility.—PALMER.

In our last number, we shewed that the Church of England was in possession of an annual income, exclusive of surplice and other fees, of £. 7,600,000; and that the Established Church of England and Ireland together had a revenue of nearly NINE MILLIONS a-year, being considerably more than the total income of all the Clergy of all the Christian world besides! In the present article, we propose giving our readers some account of the nature and extent of the services which the Clergy of the Church of England render to the public for this enormous income.

According to the best authenticated statements, it appears, that the total number of church livings in England and Wales, exclusive of situations in the possession of the dignified clergy, amount to about 10,500. Of these, 5,098 are rectories, 3,657 vicarages, and the rest neither rectorial nor vicarial—(Cove on the Revenues of the Church of England, 3d edition, p. 111.)—For readers must not, however, fall into the mistake of supposing, that these 10,500 benefices are in the possession of so many different individuals. So far from this being the case, the last Diocesan Returns laid before Parliament shew, that in 1809, 18 and 19, the years to which they refer, only 5,397 benefices were occupied by resident clergymen, many of whom employed curates; and that of the other 5,103 benefices, 3,926 were entirely intrusted to the charge of curates, and 1,177 left altogether unprovided with any spiritual instructor, and converted into absolute sinecures!—(See Abstract of the Returns in the Edinburgh Encyclopedia, vol. ix. Part I. p. 33.) Indeed, if any one will take the trouble to look into the "Ecclesiastical Directory," he will find that a very large proportion of the incumbents are pluralists—rectors in one diocese, vicars in another, curates in a third, and so forth. We have not been able to ascertain the exact number of churches in England and Wales. According to the Diocesan returns already referred to, and which, as they were drawn up by the clergy, ought to have been accurate, the 10,500 benefices are provided with no more than two thousand five hundred and thirty-three places of worship! We understand, however, that these returns are, in this respect, grossly erroneous, and that they have contributed, in no slight degree, to mislead both Parliament and the Public. But supposing that there are 5000 places of worship, which is probably a great deal too much, it is plain, that a very large proportion of the clergy of the church of England can be considered only as supernumeraries. Mr. Cove estimates the total number of persons employed in the service of the church at about 16,000, and others have estimated them as high as 17,500; but supposing the lower estimate to be the more accurate, and supposing there are 5000 places of worship, that will give upwards of three clergymen

to each, or a full third too many. If we divide the total revenue of the Church of England, by the supposed number of Churches, or 5000, each church will have £. 1520 a-year—a sum that would be amply sufficient for the support of five of our Scottish churches!

It has been said, and by very high authority, that those who do not work ought not to eat. But it unfortunately happens, that notwithstanding the unparalleled wealth of the Church of England, the incomes of the working clergy, or curates, are miserably and disgracefully deficient. The dignitaries, pluralists, and sinecurists swallow almost every thing. According to the official returns, given in a parliamentary paper, printed by order of the House of Commons, in May 1817, it appears, that in 1814, the latest period to which the returns could be made up, out of the total number of 4,405 curates, there were 1,637 with incomes between £10 and £20 a-year. And estimating their average incomes at £115 a-year, which is as much as the act 59th Geo. III. gives the Bishops authority to raise them to, the curates will only receive £200,575 of the £7,600,000 of church revenue!

This, surely, is a state of things which calls loudly for the interference of the Legislature. If the system of non-residence is to be tolerated at all, justice and sound policy alike require that the possessors of benefices should be compelled to make a suitable provision for the support of their deputies or curates. It is disgraceful to the character of the church and the country, that a poor curate should be performing all the duties attached to a benefice worth perhaps £. 2000 or £. 3000 a-year, for a wretched pittance of £. 80 or £. 100. It is utterly impossible that such a person can maintain the outward respect and dignity of his station, or that he can even purchase clothes to enable him to appear in the society of gentlemen. But this is not all. In some parishes the curates derive the principal part of their subsistence from the voluntary contributions of their parishioners; so that, in point of fact, a portion of the efficient clergy of the richest church in the world are really reduced to the necessity of begging their bread!

The Legislature have, at different times, attempted to enforce the residence of incumbents on their benefices. In 1803, a bill was introduced into Parliament for this purpose by Sir WILLIAM SCOTT, now Lord STOWELL, and passed into a law. This act provided, that any spiritual person who should, without some legal excuse, wilfully absent himself from any archdeaconry, deanery, or other dignity, benefice, or donation, or perpetual curacy, of which he was possessed, for three months together, unless it were to reside at some other dignity, &c. of which he was also possessed, should, if his absence exceeded three and was under six months, forfeit one-third of the annual value of such dignity, &c.; if the absence exceeded six months and was under eight, one-half; if it exceeded eight and was under twelve months, three-fourths; and if it exceeded twelve months, three-fourths of such annual value; to be recovered by action of debt by any person suing for the same.

For about seven years after its enactment, this statute seems to have been wholly inoperative, and as little attended to, as any of its predecessors; but its subsequent history is extremely curious and interesting. In 1811 Mr. WATSON, a gentleman who had been secretary to the bishops of London, Norwich, and Ry,

* This statement led the author of the pamphlet, "On the Consumption of Wealth by the Clergy," into an error in estimating the number of Churches, which he has corrected in the second edition of his pamphlet.

and who must, therefore, have been intimately acquainted with the state of the church, commenced nearly 200 different actions against incumbents in the above three dioceses, to recover penalties to the amount of about £ 80,000, which he contended they had forfeited under Sir WILLIAM SCOTT'S act. The actions were proceeding in their ordinary course, and no one doubted that Mr. WRIGHT would be successful in the greater part of them, when their further progress was stopped by the interference of Parliament! On the 17th November 1813, Mr. BRAGGE BATHURST brought in a bill to stay all legal proceedings against the clergy on account of the penalties they had incurred under the act 43. Geo. III. This bill was soon after passed into a law. Mr. WRIGHT'S actions were quashed—he was forcibly deprived, without receiving any equivalent, of a large sum to which an act of the Legislature had given him a just claim; and the sacred cause of non-residence and spiritual sinecurism triumphed over all its enemies! This is a proceeding whose character cannot be mistaken, and on which it would be altogether superfluous to make a single comment.

During the period that Mr. BATHURST'S bill was in progress, Mr. WRIGHT published a series of letters in the *MORNING CHRONICLE*, in which he states many curious and instructive facts relative to the state of the English Establishment. He mentions, that "in one diocese there are about 216 clergymen, who each hold two livings; 46 who hold three each; 13 who hold four; 1 who holds five; 1 who holds six, besides dignities and offices; and although many of these thus accounted single benefices are two, three, four or five parishes consolidated, yet a great part of these pluralists do not reside in any of their preferments." (Letter V).—In Letter VII. he says, "I will prove that there are pluralists holding more than seven benefices and dignities." Mr. WRIGHT has mentioned some of the shifts and pretences to which he affirms the clergy resort, in order to elude the provisions in the statutes against non-residence. But for his remarks and observations on these subjects, we must refer our readers to the files of the *MORNING CHRONICLE*.

The statements we have just made, and which are all founded on official documents, must, we think, satisfy every reasonable person that the Church Establishment of England might be advantageously reformed. We are aware, indeed, that any one who may have the courage to introduce a measure to effect this object, will be branded with the epithets of Jacobin and leveller, and will be accused of openly attempting to overthrow our venerable constitution in Church and State! But this Jesuitical trick has become rather stale. No honest or candid man will ever identify the support of the Establishment with the support of the many gross, scandalous, and flagrant abuses with which it is infected. We respect the Establishment, and are desirous to see it rendered worthy of general respect and esteem. But its support does not certainly involve the support of tithes, pluralism, and non-residence. None but its deadly and inveterate enemies will say so. Those who are friendly to the Establishment distinguish between its principles and their abuse, and are as anxious to preserve and strengthen the one, as they are to reform and amend the other.

Dr. PALEY, who cannot be suspected of being unfriendly to the real interests of the Church, distinctly lays it down, that "the preservation and communication of religious knowledge," ought to be the single end and object of every establishment. "Every other idea, and every other end," says he, "that have been mixed with this, as the making of the Church an engine, or even ally, of the State; converting it into the means of strengthening or diffusing influence; or regarding it as a support of regal, in opposition to popular forms of government; have served only to debase the institution, and to introduce into it numerous corruptions and abuses."—(Paley's Works, vol. ii. p. 29 edit. 1819.)

But surely no one will venture to contend that pluralism and non-residence are calculated to "preserve and communicate religious knowledge." Neither will it be maintained, that this object can be promoted by giving enormous incomes to clergy-

men who do little or no work, and starving those who have laborious duties to perform! Such obvious and glaring abuses alienate the minds of the people from the establishment: They vitiate and contaminate the sound principles on which it is founded: They paralyse and defeat the exertions of its ministers; and if not reformed, will certainly occasion its ultimate overthrow. There is a passage in Mr. Burke's Works extremely applicable to this subject. "Early reformations," he observes, "are amicable arrangements with a friend in power; late reformations are terms imposed upon a conquered enemy. Early reformations are made in cold blood; late reformations are made in a state of inflammation. In that state of things the people see nothing in the government that is respectable. They see the cause, but they will see nothing else. They fall into the temper of a furious populace, provoked at the disorder of a house of ill-fame; they never attempt to correct; they go to work the shortest way: they abate the nuisance, but they pull down the house."

We subjoin an estimate, given by the author of the pamphlet "On the Consumption of Wealth by the Clergy," of the probable expense of supporting the established Clergy of the Church of England and the Clergy of all other sects, under a reformed system.

Episcopal Body and other Dignitaries of the Church of England.

EPISCOPAL BODY.

2 Archbishops,	at £8,000 each,	£ 16,000
24 Bishops,	at 3,000 each,	72,000
60 Archdeacons,	at 1,000 each,	60,000
27 Deans,	at 1,000 each,	27,000

113 Persons, the Episcopal Body to receive, £ 175,000

OTHER DIGINITARIES.

200 Canons, Prebends, &c. at £200 each, £ 40,000

Whatever number of Canons and Prebends enjoy the honour of the Title, only 200 to receive the national Stipend.

313 { Persons, Episcopal Body and other Dignitaries of 6 millions of hearers, to receive, . . } £215,000

Estimate of the projected Expenditure on the Working Clergy, both of the Established Church and of all other denominations.

Number of Clergymen.	Number of Persons accommodated in each place of worship.	Number of Persons in each Congregation.	Total No. of People in their Congregations.	Amount of Annual Stipend.	Total Amount of Stipend.
500	2,000	3,300	1,650,000	£ 350	£ 175,000
1,000	1,500	2,500	2,500,000	320	320,000
2,500	1,000	1,700	4,250,000	220	775,000
2,500	600	1,100	2,750,000	250	625,000

6,500 { Clergymen, Pastors of 11,150,000 people, to receive, } £1,815,000

Episcopal Body and other Dignitaries of the Established Church, 215,000

Total amount for all the Clergy of the people of England and Wales, 2,000,000

Twelve millions of people, at £170,000 per million, 2,040,000

The congregations would of course always consist of many more persons than the lowest number requisite for each stipend, and thus it may be computed they would contain the whole twelve millions of the people.

Were some such plan of reform as this adopted, the working clergy would, it is obvious, be much better provided for than at present; while the public would gain possession of an annual revenue of about FIVE MILLIONS, now exclusively devoted to the support of a system of spiritual profusion and sinecurism. We are greatly mistaken if this subject do not, at no distant period, occupy a large share of the attention of Parliament and the country.—*Scotman, & Antislavery and all other papers, &c.*

House of Commons.—We refer our readers to our parliamentary head for an account of the manner in which the House of Commons have disposed of the case respecting Messrs. HORN and MENZIES. To those who recollect the manner in which the House punished Mr. HOBHOUSE, and others found guilty of a breach of privilege, the lenity discovered on this occasion will probably appear not a little unaccountable. The present case is, however, important on other grounds than as illustrating the consistency of the House. We cannot doubt that the precedent now set will be steadily followed up, and if so, we suspect the freedom of debate is rather in a ticklish condition. What did Mr. HORN do? Did he content himself with setting the House and the public right respecting the mistake of Mr. ABRACOMBY regarding the paper Mr. HORN signed for Mr. MACNEILL? Had Mr. HORN done nothing more than this he would only have done what he had an undoubted right to do. But he did not stop here. He did not content himself with correcting misstatements and vindicating his own character. This appears, indeed, to have been rather a secondary object in his letter. It is filled throughout with the most offensive insinuations as to the motives which had influenced the conduct of Mr. ABRACOMBY and the gentlemen from whom he had derived the information given to the House in his most admirable speech in the case of the Lord Advocate. Mr. ABRACOMBY, whose character certainly stands as high as that of any man in the kingdom, is accused, if not directly, at least in a way that cannot possibly be misunderstood, of *professing to act on certain motives, but of really acting on others.* "It is impossible, indeed," as Lord A. HAMILTON observed, "for any man to read the letter and believe that the expressions used were a mere *bona fide* vindication of Mr. HORN's character. When he, Lord A. HAMILTON, read such words as these, 'It is very possible that the wilful misrepresentation of others may have induced you to think yourself safe in the grounds of that attack,' he could not consider them as any thing short of a menace. But it is unnecessary to dwell on what is so obvious. The House, by their vote, that the letter was a breach of privilege, plainly showed that they viewed it in the light we view it in; for, it would be absurd to suppose that the House could ever have considered Mr. HORN guilty of a breach of privilege for having set them right on a matter of fact."

The precedent the House have established amounts, therefore, to this:—That to write a letter to a Member reflecting on a speech made by him in Parliament, insinuating the most disreputable motives, and even menacing him, is a breach of privilege, but of so trivial and unimportant a nature as to be unworthy of any, even the slightest reprimand! It is almost unnecessary to point out the consequences that must flow from this novel addition to the *lex Parliamenti*. It is plain, that every member who may henceforth denounce any individual before the Grand Inquest of the nation, must do so at his own personal hazard. He renders himself liable to have his motives publicly arraigned, to be accused of being actuated by the basest motives, and if he seeks redress, it must be from the pistol or the purse of the person he has accused, and not from the House—they would, at least if we may presume to judge of the future from the past, order the individual to their bar, cheer his statements, and then order him to be gone! Sir FRANCIS BURNETT is reported to have said, that every member ought to give information to the House when he received a challenge or menace; and certainly this would be the most judicious mode of proceeding; but it does not correspond with the habits and feelings of society. Up to the late proceedings the privileges of the House were supposed to be intended to secure the freedom of debate; but were members to act in the way suggested by Sir FRANCIS BURNETT, they would be rather looked upon as a shield for the protection of cowardice.—*Scotsman*.

Turkish Frigate at Deptford.—Lord Liverpool appears, by the report of his speech in the House of Lords on the night of the 17th of July, to have given an explanation, though a partial one, of the circumstances belonging to the great Turkish frigate at Deptford. The vessel is, we find, the property of the Pasha of Egypt, and en-

tered the Thames in what may be considered the civil service of this country, having brought a cargo partly consisting of curiosities for the British Ministers. His Lordship stated, that after having been repaired, application was made to have her armed and supplied with ammunition, which was at once refused. Yet, according to Mr. HOME, she has been armed, and is to be manned with British sailors on her voyage home. Now, it would be satisfactory to know also from Lord Liverpool, whether or not this frigate of the Turkish Pasha is to navigate the Mediterranean under the flag of England, so as to be covered by it from an attack of the Greeks.

Orangemen of Ireland.—A petition was on the night of the 17th of July, presented to the House of Commons by Mr. Broughan, from the proprietor of the *LUTHERIAN*, a journal printed at Belfast, expressing the surprise of the petitioner that means had not been taken by the Executive Government of Ireland, to prevent the insults and outrages offered by Orangemen to the Catholics on the 12th of July; and praying that the House would consider about the application of some remedy. The surprise of the petitioner is no more than natural, and his prayer one which, in our opinion, it would become the House of Commons to comply with. It is deeply to be lamented that the inevitable evils under which Ireland seems doomed to suffer, should be increased by these wilful and wanton aggravations which a very slight regard for the public tranquillity, or for the comfort and happiness of the people, would long ago, as it appears to us, have induced the Executive Government, or, if not within its competence, the municipal authorities in Dublin and elsewhere, to provide against. We have long since pressed upon the feelings of men in power, the disgraceful perversion of the name and character of William III. to these mean factious purposes. That sovereign came amongst us to put down intolérance—not to use as base an engine as the support of his government, or to soil the glorious record of the Revolution by connecting with it a system of petty vengeance, and perennial vexation, against any class of his subjects. Much mischief has been done to the general interests of the empire by thus stupidly identifying, in the minds of the Catholics, the origin of British liberty with that of Irish persecution. It has deprived both nations of the advantage of drawing their constitutional sympathies from the same source, and has sensibly impeded the growth of the Irish Catholic in those political principles and attachments which would have fitted him for the enjoyment of higher privileges, and for the exercise of more extensive and more active powers.—*Times*.

Placards.—The great public thoroughfare between Westminster and Pimlico is now completely blocked up. The Commissioners of Sewers have laid open the road between Hooking-bom gate and the Turnpike, and whilst this necessary work is in progress, a passage is totally impossible. The following notice is accordingly placed on a board at the barrier next to Barkingham gate, rather facetiously addressed to *Carriages and Horses*, but no doubt very well meant, although falling in its object:—

"All carriages and horses intending to go to Pimlico or Chelsea are requested to proceed along James-street, William-street, and Charlotte's-road."

Unfortunately, however, at the end of William-street appears another barrier with this menacing address, not to the *Horses and Carriages*, but to the Commissioners themselves:—

"Notice is hereby given to the Commissioners of Sewers, and to all other persons, that this road is private property, and that no horses, carriages, carts, or other vehicles, will be allowed to use it. All trespasses will be punished according law."

"J. CARDEN, Solicitor to the Estate, Temple."

Thus the only near outlet is stopped up, and the public, however they may smile at the placards, find it is no joke to be compelled to make a circuit of a mile and a half, by the Vauxhall-bridge road. In fact, the inconvenience is monstrous, and ought to be remedied.—*Morning Chronicle*.

Imperial Parliament.

HOUSE OF COMMONS, WEDNESDAY, JULY 17, 1822.

BREACH OF PRIVILEGE.

On the motion Mr. COURTENAY, the order of the day for the attendance of Messrs. Hope and Messies, at the bar of the house was read.

Mr. COURTENAY then moved that Mr. Hope be called in.

The question having been put and carried, Mr. Hope was brought to the bar.

The SPEAKER then addressed Mr. Hope to the following effect:—On the 9th of July, complaint was made to the house of a printed letter, signed John Hope, and addressed to the Hon. James Abercromby, a member of this house, taking notice of a speech made by the said member in his place. The said printed letter was delivered in, and extracts from it read. Be so good as to look at the letter, and state whether it is yours.

Mr. Hope, the letter being shown to him, admitted that he was its author.

The SPEAKER then proceeded:—The house came to a resolution that the said printed letter was a breach of their privileges, and they ordered you to attend at the bar this day; therefore, if you have any thing to offer in explanation, now is the time for you to speak; you will be heard.

Mr. Hope began by gratefully acknowledging the opportunity which had been offered him of explaining the circumstances attending the publication of his letter. He did not wish to state any thing which could be considered at variance with the resolution of the house which had been communicated to him, and which declared that letter a breach of privilege. He felt sensible that his letter might be construed to be a breach of privilege, but he hoped that, for reasons which he would show, it would be considered rather a technical and venial, than a substantial and serious breach of privilege. Entertaining the most profound respect for the house—regarding its privileges as not less valuable to the representatives of the people than to the people themselves—viewing the representative branch of the constitution with the most profound respect, and holding its character dearer than life—with these principles and feelings, he begged the house to consider the cruel situation in which he was placed, and to believe that nothing could give him more pain than to find that the only course which he had thought it possible to take for the vindication of his own character, should have led to that which appeared to be an act of contempt towards the house. He was disposed to hope that in dealing with his case the house would have regard to the situation and feelings of the party. He hoped the house would give him credit when he stated, that the letter was not published with any view of condemning the authority or invading the privileges of the house. The object which he had in view in publishing the letter was to vindicate his private character, and his professional conduct, by correcting a misstatement—to him it appeared an unjust and unaccountable misstatement—which had been published respecting his conduct on a recent occasion. In a publication which had gone forth to the world as a report of what had occurred in that house, delinquencies had been alleged against him in the discharge of his public duty. Those charges were of a very grave, and very serious, and the house would permit him to say, of a somewhat exaggerated character. They were charges of instituting a malicious prosecution, for motives the most base and unworthy. He was accused of having proceeded in that prosecution, for the inhuman, the horrible, the revolting purpose of prejudicing the case of one who was about to stand his trial for life or death. The mode in which this had been imputed to him was marked by so much plausibility, as to appear to have rested on evidence of his (Mr. Hope's) alleged personal hostility to the individual who was so to be put on trial. His (Mr. Hope's) accuser had imputed to him, that he had indulged the same resentment in the course of his professional practice, as if it had been a private case, between himself and another party; that he (Mr. Hope) had proceeded throughout upon a principle of malignity and personal animosity. The same accusations imputed to him (Mr. Hope) that he had sacrificed the interests of justice by aggravating the offence for which one party was prosecuted, while he indulged the same malevolent feelings personally against another; and that by so doing he had abused those powers which his professional character conferred upon him. It was therefore one of the imputations, that he (Mr. Hope) had abused a professional privilege to gratify a personal feeling, in the face, and in defiance, of all those principles of conduct without which no counsel could ever hope to obtain public confidence, and gentlemen could ever aspire to private respect. But this was not all; for these charges were coupled with other imputations, upon which, indeed, he would not trust himself now to expatiate; but which were, need he say, injurious to his own feelings—need he say that they were injurious to his own character—need he

say that they were directly calculated to injure him in his professional capacity? and to withdraw from a young man the means of attaining that sort of eminence which of course every one so situated hoped one day to attain? But upon what grounds had these delinquencies been imputed to him? The fact was, that he never was a counsel in the case in which the particular proceedings which had been alluded to took place. He was totally ignorant of the contents of that paper which he was said to have drawn up, and to which allusions appeared to have been made in the public reports of what had passed in that house on the occasion in question. It now appeared that he (Mr. Hope), in the usual course of business, and according to the invariable rule and practice of the Scottish courts, had signed that paper for one of his brother advocates, with out even looking at its contents. That this was a mere matter of course, and entirely according to the practice of those courts, he believed many honorable gentlemen who now heard him perfectly well knew; but the gentleman who had alone a right to complain, if what he (Mr. Hope) had done was wrong—the party who was immediately engaged in the transaction—had made every inquiry, and had found what he (Mr. Hope) now stated to be the case. Under those circumstances, he would ask that honorable house with perfect confidence, whether it was possible that such charges, affecting his professional character so deeply, and so manifestly impeaching the honour, and fairness, and integrity of a gentleman of any character, should have been allowed to be disseminated throughout the kingdom in that way in which public feeling was most irascibly, and most authoritatively excited, without his taking some steps to vindicate himself from them? With regard to the imputation of having maliciously prosecuted an individual, he (Mr. Hope) had already stated in his letter, that his own wish was not to have instituted that prosecution without bringing it to a conclusion: his object had been to bring it on at the then existing assizes at Glasgow, which would have been long before the occurrence of that other trial which he was accused of having wished to prejudice. Feeling that the charges which had been made against him (Mr. Hope) had proceeded upon what he knew to be a misstatement of facts arising, as he was bound to suppose, from some misapprehension on the part of the honorable member by whom he had been accused, he would ask the house, how it was possible for him not to feel warmly, and in that feeling endeavour to defeat the first effect of such charges, by a denial and contradiction as public as he could command. To those who were engaged in the more important occupation of legislators and statesmen, it might perhaps be difficult to conceive how much greater was the effect of imputation thus conveyed in a narrow and contracted circle, than when the question was one about general matters of a wider and more public interest. Honorable gentlemen might not be aware how much provincial towns and small societies were influenced by published statements and assertions purporting to be speeches in Parliament. To him, accordingly, effects the most painful had accrued from the publication of those charges which were said to have been made against him in that house. It was in consequence of this that he had taken the step which he had adopted; and he was sorry to find, that the expression of his feelings was considered to have been too warm, and to have violated the privileges of that house. That he should have declared himself too warmly, was, at all events the natural effect of the matter to which his letter was a reply. As to the manner being such as to have interfered with the privilege of Parliament, he had but little to say. He would only respectfully put it to the feelings of the house, whether guardedness and reserve could properly be expected from any British gentleman, who felt (he trusted) as a British gentleman and a British counsel ought to feel, when his honour and his integrity were thus attacked? He submitted, that not only his feelings as a gentleman, but his rights and privileges as a counsel, had been attacked; and he was not much afraid of being condemned by those whom he had now the honour to address when he ventured to say, that, placed in a similar situation, their expressions would have been much the same. Had similar imputations been cast upon them, they would have felt ashamed of not replying to them (more than that possible) with similar warmth. With these observations he submitted his case to that honorable house, begging to express most sincerely his regret that the publication of his remarks on the report of a member's speech should have placed him in a situation which brought him into contact with their privileges; but he was anxious not to be understood as wishing to shrink from any of the personal consequences with which the house might think necessary to follow up the resolution by, which they had declared that those privileges had been violated. (loud and continued cheers from the Ministerial benches.)

The SPEAKER:—"You may withdraw."

Sir ROBERT WILSON begged leave to say, that really he was never more ashamed than he felt now, on hearing those most unbecoming expressions of approbation (*loud cries of "order, order," and "withdraw!"*): expressions the most indecorous, of a motion like the present, had just proceeded from gentlemen on the other side of the house, (*the cries of "withdraw!" were here repeated*): They were all, as he understood, assembled there to discharge a very grave and very important duty, and

yet the judges, or those who should be such, were proclaiming themselves parties to the transaction (*crises of "ord-r."*) They had thus immediately declared themselves not judges, but parties to the question, ("or *der.*") How was it possible, under such circumstances, that they could proceed with fairness, or candour, or deliberation?

Mr. W. COURTENAY said, the first thing which it would be now for him to do, was to move that the gentleman who had just appeared at the bar—"that Mr. J. Hope, who had avowed himself to be the author of this letter, was guilty of a breach of privilege."

This motion being seconded, put from the chair,

Sir FRANCIS BURDETT rose. Before they proceeded further, he was desirous of stating his objections to the present motion; for if he was to concur in this vote, it would be contrary to the opinion he should afterwards offer, supposing it was intended to move for the indication of any punishment on the person who had just left the bar. That opinion would undoubtedly be in the negative, in accordance with the conviction which he (Sir F. Burdett) had always expressed of the great danger arising from the assumption of such a power as that which the house was accustomed to exercise in matters of privilege. Nothing which he had witnessed in the course of his parliamentary experience could remove from his mind the impression of that danger; and he should now offer to the house the grounds upon which he conceived it would be inexpedient and unjustifiable to exercise such a power on the present occasion. (*hear, hear.*) Of what had been said by the gentleman who had just retired, he (Sir Francis Burdett) had heard but a very little part; nor was it, perhaps, necessary that he should have heard more. Be what that gentleman had said what it might, he was totally at a loss to know how they could so extend the privileges of the house, as to hold them violated by an individual's publishing a letter in regard to what had been said within these walls, when any honourable member might see every day what he had uttered in the house on the preceding evening reported in the public papers. Now, whatever others might think about that matter, how it could ever, by possibility, be drawn within the definition of a breach of privilege, he (Sir F. Burdett) could not conceive. Suppose it were, it would be an assumption of power which would not be endured for a moment in the King. Were the King to assume it, the country would not tolerate it. But say that the parliament might do so notwithstanding, he (Sir F. Burdett) begged to say, that the present case did not come near a breach of privilege. Here were two persons stating themselves to have been calumniated, as they conceived, by statements which had been put into a newspaper. They complained that the facts there inserted were untrue. (*hear.*) This appeared to be the whole scope of the case; and how it was to be converted into a breach of privilege, he had yet to learn: but if, in truth, it was a breach of privilege, it was surely infinitely absurd in the house to permit the publication of reports of their daily proceedings. If this in truth was such, no man in the country, who was connected with the press—no portion of the press itself, in this kingdom, could be safe for one moment; for if a person who might feel himself aggrieved by what had so been published as having been stated in that house, and who might think such statements to be false and unfounded, was not at liberty to contradict them (in justice to those feelings, of the sincerity and acuteness of which that person could alone be the judge), because the contradiction would amount, when dictated by such feelings, to a breach of the privileges of parliament, surely the original publication of the statements must be at least an equal breach of them. With respect to what the breach of privilege, on the present occasion, consisted in; he (Sir F. Burdett) was altogether uninformed. Undoubtedly, if any one had called upon a member of that house to account for words which he had used in it while in the discharge of his parliamentary duties; or if any one threatened a member on such an account; under such circumstances, the member would himself be committing greatest breach of their privileges, if he did not bring the matter before it. Any member of that house, in a case of this kind, would have a fair, and in his (Sir F. Burdett's) opinion, a very proper ground indeed for complaint. (*hear.*) At the same time he must confess his belief, that if hon. gentlemen considered well what was meant by "the privileges of the house," they would find that their privileges were intended not to give them a power over the rest of his Majesty's subjects, but were intended, originally, only to protect them against a power which was at the time frequently exercised, when the executive government did not possess that influence and those officers within the house which however, ministers had lately avowed and declared to be necessary in order to carry on the government of the country; although they were certainly, in effect, a violation of public liberty. That influence, though it might have been repeatedly asserted, in fact, was formerly always considered and acknowledged to be unconstitutional. But it was never meant, by conceding to parliament these privileges, to enable them to declare that particular facts amounted to a breach of them (after those facts had occurred). In some cases it would necessarily happen, supposing that privileges ran to this extent, that the house must make an "*ex post facto*" law. It was at least undoubtedly clear and true, that no man could mean to put himself

in jeopardy; no man could mean to incur the exercise of a despotic power over himself. Unquestionably such was the power assumed by that house; for it gave and professed to give, no man a chance even of defence. It was monstrous for the house to be attempting, first to constitute themselves into judges and jurors, and then to declare their own law: but more particularly after the fact had taken place which that law was meant to apply to. Something to this effect was Cicero's observation:—"Vetant leges sacratæ, vetant duodecim tabulæ, leges privatis hominibus irrogari: id est enim privilegium nemo unquam tulit: nihil est crudelius, nihil perniciosius, nihil quod minus hæc civitas ferre possit." To assume such a power in a civilized country, would be a subversion of all the rules of justice. According to this doctrine, a party might be called on to answer whether he had done this or that thing, yes or no? He might be induced to answer "yes," thinking he had done nothing but what he might very properly do: the house would then, having thus induced him to reply in the affirmative, send him to prison on that account. (*hear.*) The minor punishment which all courts having the power of imprisonment had a right to inflict, the house did not possess a power to impose—he meant punishment by fine. The house never presumed to lay on a fine, though the maxim of our law was, that the slightest personal punishment was greater than any fine. Why this was repugnant to common sense, that while they could not impose the fine, they might proceed to award that much heavier sentence of imprisonment. To him (Sir F. Burdett) this seemed to be absurd; and really if it was to be perpetually happening, that every member who might fancy this or that to be a breach of privileges was to call the party to account for it, the house would have nothing else to do but to discuss these matters. But for his own part he really did think that of late in no case had the house got out of matters of this kind, in a way that could have been satisfactory to itself. If the statement (judging from what he had heard of it) that had just been made by Mr. Hope was correct, it would seem that the parties had only to thank their friends in that house for the situation in which they were now placed (*hear.*); for those hon. gentlemen had refused to grant the inquiry which the honourable member for Calne (Mr. Abercromby) had called for. The complaint of the gentlemen, therefore, who had to appear at their bar should be, not against that honourable member, who in performing (and in a manner the most unobjectionable) a painful but very important duty, had brought forward the whole transaction out of which this question rose; but it should be preferred against those hon. gentle. who had expressed themselves hostile to that inquiry. He (Sir F. Burdett) supposed he should be told that the breach of privilege arose out of the intention to compel, or the compelling, a certain party to an act of personal violence. Now to him it certainly did not appear, that if the object of the others was of this personal and pecuniary character, it could be best answered by publication in the newspapers (*hear.*); and therefore he could hardly suppose that they had, in fact, such an object in view. But if the observations of those parties were meant to be public, he could not suppose that the execution of that intention was a breach of privilege, when parliamentary proceedings were regularly published. The publication of such reports might be advantageous rather than otherwise; and that, possibly, was the ground upon which it was permitted. But if this indulgence or connivance was to prevail at all, nothing could be more unfair than, that whenever it appeared to an hon. member to be his duty to bring the matter forward, to insist upon the breach of privilege, and to entrap, as it were the offender. In a great variety of instances, the privileges of Parliament were constantly most grossly violated. (*hear.*) They all knew that bribery at elections, and in the obtaining seats in that house, were most direct and gross breaches of privilege: yet he (Sir Francis Burdett) recollected very well, and every body else must remember, the noble lord opposite being detected in this gross and avowed breach of privilege (*a laugh and cries of "hear."*); it was an offence, however, so serious, that it might be said to tug at the very heart-strings of the constitution. The house, to be sure, did come on that occasion to a vote, that the transgression, having been detected, as it were too soon, before any thing effectual had been done (*a laugh*), there was nothing to go upon against the noble lord. Those who contended for the exercise of this power on the present occasion, ought at least to show that some good was likely to result from it. The hon. baronet, after again pressing his inability to discover wherein the breach of privilege now complained of consisted, and declaring that had this been the case even of a libel on the house, he should have protested against punishment decreed by virtue of this assumed power, proceeded to observe, that if the house had been really the representatives of the people, instead of what it was, the violation of its privilege in other cases was too constant to warrant their interfering in a business like the present. There was another privilege of parliament to which he most strongly objected, however expedient it was that parliament should possess it at a time when the Crown was accustomed to interfere with the proceedings and the course of parliament, by arresting members as they were going down—he meant exemption from arrest for debt. When that privilege was first granted, little or no inconvenience followed to the public, because parliaments then did not sit for

more than 40 days together. But now, when the duration of a parliament was seven years, the privilege of freedom from arrest did appear to him little better than the protection of dishonest debtors from unfortunate creditors. (Aear.) It was an exemption, the sooner abolished the better; and its loss would be much more for the honour of parliament than its retention. And he said this more particularly, because every member, at his admission into the house, was obliged to swear, that over and above his debts he had a certain qualification (Aear, Aear.) by which he understood that no honest man could take that oath, being in debt; or else, here again was an instance in which the privilege of parliament was violated with impunity. No member of parliament in those days stood in awe of that power which those privileges were originally given to guard him against. Now there could be no pretence for retaining them. Under the present circumstances, he certainly did feel it to be his duty to protest against all anterior proceedings on the part of this house, with regard to these individuals. (Aear.) With these parties or with the facts, he had nothing to do. The only question was, whether the house could fairly exercise its power on every occasion of a description like this. Thinking it could not, he had felt it to be his duty to make these observations. (Aear, Aear.)

Mr. STUART WORTLEY conceived that if the present case was a breach of privilege, it was their own fault that it had happened. (Aear.) If the debates in Parliament were permitted to be made known to the public in the daily newspapers, it was dealing out a very harsh measure of proceeding undoubtedly to single out a particular individual for having done that which others were allowed to do with impunity. The honourable member for Calne (Mr. Absecomby) when he brought forward the subject out of which this question originally rose, did so in a way that certainly reflected upon him the highest honour. (Aear, Aear.) But if the attacks which that hon. gentleman's speech contained were said to be untrue, was the party so complaining to be expected to allow the imputations to remain for several months unanswered, until the rising of parliament, or some other subsequent event should give him the opportunity of proceeding to reply to them more properly and formally? In the mean time, however, the public papers had published the speech of which the party complained. Why then he (Mr. Wortley) said it was the duty of the house to prevent the publication of reports of their debates. It was in their power to do so; and if they did not, any thing of this kind they must consider as their own fault. He did hope that this case would be a lesson to the House of Commons, and that at any rate they would not allow in future those proceedings to be made public which were of an accusatory or criminatory nature. In the courts of law, if the Attorney-General in a criminal cause moved for an information, it was upon statements contained in a written paper; if another counsel moved, it was on affidavits, and the persons who made those affidavits took particular care that nothing of this sort should arise, because they themselves were responsible for the facts contained in them. If the result of voting what had been written by this gentleman (Mr. Hope) to be a breach of privilege would be the infliction of any punishment upon him, he (Mr. Wortley) would unquestionably vote with hon. baronet who had just sat down.

Mr. CANNING apprehended that the house had already decided the question that the matter contained in the paragraphs excepted to in the papers on their table was a breach of privilege. At that discussion he by accident was not present, and it was now too late for him to say what view, individually, he might have taken of the question. The house, however, having come to that decision, had to consider the motion now submitted; the whole meaning of which he took to be this—that the gentleman lately at their bar, having confessed himself to be the author of the letter, was the individual by whom this breach of privilege had been committed. In was in this acceptance of the motion that he (Mr. Canning) meant to concur by his vote; but he intended, at the same time, strictly to reserve himself from given his sanction to any, the most remote, the slightest punishment to be visited on such individual. He (Mr. Canning) had no notion of what his hon. friend (Mr. W. Courtenay) meant next to propose; but he was anxious thus to guard himself from being misunderstood.

Mr. W. COURTENAY, considering that this vote was absolutely and inevitably consequential on that to which the house had already come, had thought it fitting to submit it to the house without further observation. He had reserved to himself to state his own views of the case, as to what ulterior step should be taken, when the question might arise upon it in the regular course. But the discussion which his opinion had rather inconveniently anticipated that matter, made it proper that he should now declare what it was with which he proposed to follow up what had already been done.—(Here the hon. gentleman passed amidst loud cries of "Aear, Aear," "go on," "go on," and "question," in the midst of which—

The question that Mr. Hope, by avowing himself to be the author of the letter before the house, had been guilty of the privileges of that house, was put from the chair, carried in the affirmative without a division.

Mr. W. COURTENAY then said, it now belonged to him in the usual course to address to the house a few observations connected with the resolution with which he proposed in the present case to proceed. (Aear, Aear, Aear.) It was scarcely necessary to say that he came to this subject divested of every feeling of a party or of a personal nature. If he knew himself at all, he came to the consideration of this question with a perfectly unbiased and unprejudiced mind. (Aear, Aear.) He was actuated only by an anxious desire to present to the house in its true light, and to call for its acquiescence to, a proposition which he thought the circumstances of the case would be considered to demand. In the first place, he would assure the hon. and gallant gent. opposite, that he (Mr. Courtenay) had no part in, and given no countenance to, any symptoms of approbation which that evening had been elicited by what had been heard at the bar. (Aear, Aear.) He thought that what fell from any individual at that bar ought not to be made the subject of any such expressions. (Aear.) Since he had first introduced this subject to the house, he had of course considered, as it was his duty to do, in what way it was to be followed up; and that consideration must depend on the conduct of the gentleman who had been placed at the bar. In looking, as a member of Parliament, to the conduct of Mr. Hope, he was certainly disposed to give to the language and manner of that gentleman all the consideration which they deserved. At the same time, that a breach of privilege had been committed, the house had already unanimously decided. ("no, no.") On a former evening it had been so decided by the house, *semis contradictor.* (Aear.) Whether he was right or not in having brought the matter forward for the consideration of the house, the house must judge, upon a review of all the circumstances. His great object (and he was not ashamed to avow it) had been to prevent that which it would be always desirable to prevent—viz., a breach of the peace arising from what he now firmly believed to have been a mutual misapprehension of what had passed in that house. (Aear.) He hoped it would be understood within and without those walls, that the privilege which parliament undoubtedly possessed, of freedom of speech was essentially necessary to be preserved in all cases; and that this, and other privileges, they possessed for the benefit of the people, and not of themselves alone. It seemed that in consequence of the report, which had gone forth to the world of the speech of his honourable friend, the member for Calne, upon the discharge of a painful and peculiar duty, the party who was the object of the resolution which he (Mr. Courtenay) was about to propose, conceiving himself to be injured and aggrieved, had not allowed them to lie over till a more formal and regular investigation had enabled him to ascertain their truth or misstatement, but had taken an immediate and perhaps less temperate notice of them. The hon. gentleman proceeded to remark, that the house had heard the manner in which Mr. Hope had expressed himself, and he (Mr. Courtenay) had now to move a resolution which, while it asserted the privilege of parliament, would show to the gentlemen who had lately been placed at the bar, that the house upon his explanation, had no wish to proceed any further in the cause. It was to this effect:—"That Mr. Speaker do communicate the resolution which has just been read to Mr. John Hope; and do further inform him, that under the circumstances of the case, and in consequence of the explanation which has been given by him at the bar, this house does not feel itself called upon to proceed in the matter any further." (Aear, Aear.)

Sir R. WILSON, though he must approve of this resolution to a certain extent, could not coincide with it, because it did not carry into effect the original motion of the hon. member (Mr. Courtenay). He conceived, too, that this was one of those breaches of privilege which the house was bound to notice. In such a case as this house was called on to protect its members. It was called upon to take some pledge from the party who had just been heard at the bar, that no proceedings should take place of such a nature as those which it was the object of the hon. gent. (Mr. Courtenay's) original motion to guard against.

Sir R. FERGUSSON did not rise to oppose what appeared to be the general wish and feeling of the house; but out of respect and regard for Mr. Stuart, he must reluctantly observe that Mr. Hope had introduced into the letter one paragraph (which could not assist his argument, and which, therefore, it was difficult to account for the insertion of) of a most libellous nature, and which was taken from a paper so obscure, that otherwise it could never have met the eye of those who would now read it. It was from a paper called the *REACON*, and was meant to reflect on Mr. Stuart. It began with these words—"Was the cowardly ruffian, &c." Now he (Sir R. Fergusson); in his place as a Member of Parliament, desired to give the statement, which from its character and origin, he would not repeat at length, his most unqualified contradiction.

Mr. BROUGHAM.—No person in that house, not even the hon. gent. (Mr. Courtenay) by whom this subject had been introduced, was more anxious than himself to find some way for terminating these proceedings, if such a one could be found that should be consistent with their duty to the country and to themselves. Not that he (Mr. Brougham) however, entertained any doubt of the privileges of parliament having

been in this case broken—not that he considered it a matter of that light nature which he was sorry to perceive many honourable gentlemen seemed to do—not that he could give it the name which the gentleman who had just left their bar had chosen to designate it by, of a more technical or apparent breach of privilege, because he (Mr. Brougham) did not think that he was entitled, neither on a view of the whole circumstances of the case, nor on considering that this had already been voted by them to be a breach of privilege, nor from considering the explanation, as it had been called, which they had received from the gentleman lately at their bar from neither, nor from the whole of these circumstances, did he think that he was entitled to say, that the present case was the same as one of the mere publication in the ordinary way of their debates, (to which it had been likened,) or as one where reference, without any personal abuse or application, had been made by any person, whether aggrieved or not, to what had passed within their walls. A case of such a kind, indeed, would have been technical breach of privilege, and but a nominal one; and had such a case been new before them, there could not have been two opinions on the question, whether, if the party had been asked for any explanation or apology, the merest, the scantiest, would not have been accepted. But he really did feel infinite regret (and, indeed, the task was cast upon him), at being obliged to inquire whether more had not been committed here, (than that to which allusion had been made?) The reason of the reluctance which he felt to address the house on this matter was Mr. Hope's peculiar situation. Charges had been made public which the party considered to be unfounded. Under these circumstances he had sat down, with the view of vindicating himself from them, and he (Mr. Brougham) would be the last man in the world to prepare himself to weigh too scrupulously or nicely the way in which a man had so undertaken to defend himself from imputations that he might have considered to be undeserved. He had yet another ground for this reluctance. As far as regarded that house, it would be an affectation of awkward delicacy to hesitate to say, that in the present case misconduct there had decidedly been. (Hear, hear.) He trusted that every circumstance would be taken into consideration, both as might regard the question of punishment, and his (Mr. Brougham's) reluctance to speak upon this matter. In the mean time, however, he must ask what had this gentleman (Mr. Hope) done? They must go on to inquire; and in doing so must be careful not to mix up any matter that might leave it doubtful whether a mere technical breach had been committed, or an actual breach of the privileges of that house? He did feel himself called upon to say, that the question was not on an apparent or technical, but on a direct and positive breach of privilege. It was a mistake to say, as it had been said, that this letter was a mere comment of that Gentleman's on a newspaper report of an honourable member's speech. The words, already voted to be a breach of privilege, were not of this description. They contained a direct attack on that honourable member (Mr. Abercromby) for what he had said in the conscientious discharge of a very painful duty. A personal attack might be made by one member upon another, which might pass without notice, at least without a reprimand from the Speaker, but which would amount to a breach of privilege if spoken by a stranger out of doors to a member. The terms employed by Mr. Hope, however, were such as no member would have a right to use in his place, or without leading in a single second either to a summons to attend to the order of debate, or to a reprimand from the chair. It was a rule that motives should not be imputed, but least of all those which were malignant, unfair, and unjustifiable. If a member, clothed with the privileges of parliament, and allowed to carry them to the fullest extent, were to have given to such expressions, he would have been guilty of a breach of parliamentary order. He would only comment upon one of the expressions in the letters of Mr. Hope. The hon. member for Calne was charged with saying that, in his place in Parliament, of the unfairness of which he was himself conscious at the time. He (Mr. Brougham) would ask whether such terms if spoken by a member would not have produced a reprimand? Such was the accusation against the hon. member for Calne, the temperance of whose speech must be as readily admitted as its ability, and the purpose imputed to him was a wish to serve his political associates in the country. The question then was, whether a person out of doors was to enjoy a degree of license which was forbidden to a member—whether he was to be permitted to say the member professing one object really had another, that other object being to gratify political malice and to serve his factious associates? No man in the house would be permitted to say so, and no man out of the house ought to be permitted to say so. It would be confounding offences perfectly distinct, if it were imagined that Mr. Hope had done no more than make an allusion to what passed in the house. The question then was, how the offence committed was to be dealt with? It was proposed by the honourable member for Exeter (Mr. Courtenay), that the house should proceed no further in respect of the explanation offered at the bar; but with every disposition to get out of the difficulty—with all inclination to visit Mr. Hope as lightly as possible, he (Mr. Brougham) could not see how such a determination could be adopted, after the vote of the previous night that the writer of

the letter had been guilty of a breach of privilege. The ground for the proposed resolution was, that Mr. Hope having given an explanation of his motives, there was no reason for any severity of censure, and that nothing more ought to be done; but the truth was, as the honourable member for Exeter must feel and know, that after a vote of a breach of privilege, there was but one expression that could avail the individual at the bar, and induce the house to proceed no further—viz. an expression of contrition. Explanation, if any, ought to have preceded the vote that the letter was a breach of privilege; for afterwards, matter of mitigation only could be heard. He appealed to those who best knew the practice of the house, whether a single instance was to be found where a person found guilty of a breach of privilege had been allowed to escape even without censure, on the ground that he had explained. Expressions of contrition, apology, and stating that he had acted under temporary irritation—that he was sorry for what he had done, and that he did not intend the words in the worst sense they could bear, might be reasons for going no further. First he begged to ask what sort of explanation had been given? It was impossible to find any, but that Mr. Hope had acted under the influence of angry feelings. To such an appeal he (Mr. Brougham) was as open as any man; but there were two senses in which the letter might be taken; the one was a hasty, intemperate, and reprehensible expression of feeling; but Mr. Hope might have had ulterior views—he might have intended to provoke a member to a breach of the peace, and he (Mr. Brougham) asserted that Mr. Hope was ill-advised (he his adviser whom he might) when he did not, at the bar, negative the second alternative. He had left the house in utter ignorance whether he did not mean to excite the hon. member for Calne to fight a duel. If untrue, it would have been very easy for Mr. Hope to have denied the charge, though he (Mr. Brougham) was not one, he would venture to say of a hundred now in the house, who expected him to deny it. Had the gentleman at the bar offered a single expression of contrition? It was not pretended that he had; and if he did not condescend to tell the house his motives, he left it in a situation, with respect to its privileges, its rights of discussion, and its security to members, with respect to its dignity, character, and honour, which even the hon. mem. for Westminster, little as he valued the house, much as he disliked its constitution, and severely as he judged its conduct, most consider truly pitiable. Never since privileges had been talked of—never, since privileges had been outraged—never since a man had been put to the bar and the house had been called upon to defend its rights would it have been reduced to so low, so miserable, so contemptible, so pitiable, so despicable a predicament. He denied the possibility of a majority supporting the resolution of the hon. member for Exeter, for he felt satisfied that his house would not, for the sake of preserving the character of Mr. Hope, utterly abandon and sacrifice its own.

Lord BINNING had hoped, after the judicious and temperate course recommended by the hon. member for Exeter, that the house would have been nearer the termination of this discussion than it appeared likely to be after the speech just delivered by the hon. member for Winchester. With the most unfeigned regret he rose to address the house, but he felt that if he allowed what had been last said to pass unnoticed, he should not only fail in the duty he owed to the house, but in the duty which he freely confessed he was still more desirous of performing—the duty he owed to a beloved friend and relation lately at the bar. (Hear, hear.) The hon. and learned member for Winchester had concluded by observing, that if, on the resolution of the hon. member for Exeter, Mr. Hope were to be questioned no farther, there would be an end of the privileges of Parliament and to the freedom of debate. He (Lord Binning) was one of those who thought that when a breach had been committed, it was incumbent on the house to deal with the person offending with the greatest possible leniency. He did not mean to say that there might not be cases of breach of privilege in which it was necessary for the house to go a great deal farther; but the question here was, whether, under the peculiar circumstances, it ought to do so now. He was prepared to contend that there was nothing in the case of Mr. Hope that called upon the house to do more than was suggested. The hon. member (Mr. Brougham) had said that he had looked in vain for any word of explanation; but he (Lord Binning) appealed to the whole house whether it had ever heard a more firm (hear, hear.)—he would repeat it—a more firm or a more respectful explanation. (Hear, hear.) He should not have held his learned relation so highly if it had not been firm. It contained a statement of the motives by which he had been actuated, upon which every honourable man would feel himself bound to act. His learned relative had explained distinctly, that in writing the letter in question, he was not urged by the slightest wish to infringe the privileges of the house.

Mr. BROUGHAM interposed.—Nobody would rejoice more than himself, could it be shown that he had misunderstood what passed at the bar; he, however, had heard Mr. Hope declare, that he had felt called upon to write the letter, even at the risk of infringing the privileges of the house. (Hear.)

Lord BINNING.—Undoubtedly Mr. Hope had said so, and in that declaration he was prepared to uphold him. In another part of his speech he begged to re-assert, that Mr. Hope had distinctly said that he was not actuated by the remotest desire to infringe the privileges of the house, for which he entertained so high a respect. He (Lord Binning) asked, if the manner of Mr. Hope was not perfectly respectful? (hear.) He had stated that he had been reduced to the publication of his letter, at the risk of infringing the privileges of the house, and this necessity led him (Lord Binning) to consider the circumstances of the case. Charges had been circulated against Mr. Hope, through the public papers, in every part of the kingdom, under which it was intolerable for him to live: they attacked his reputation as a gentleman, and marred his prospects as an advocate. He might have stated at the bar, and he (Lord Binning) could bear witness to its truth, that had the inquiry hanging over his head, and that of the Lord Advocate, been likely to be undertaken this session, no publication of this irregular sort would have been hazarded. But he knew that there was no chance even of its commencement; and if these accusations were allowed to obtain credit for six or eight months without being repelled, the impressions upon the minds of men might be indelible: after the lapse of so long a period, if the defence were reserved till then, it would be read with a strong and perhaps an involuntary prejudice against the party who had so long postponed it. Mr. Hope had therefore come to the resolution of printing this letter. It was to be remembered, also, that the charge had not the slightest existence in point of fact—that it was purely imaginary—viz., that he was held out to the world as counsel in a case in which he had never been connected; and comments were made upon the fact, as if he had been actuated by the basest motives that could operate upon the human mind. He (Lord Binning) did not speak upon the authority of reports, but from his own recollection of what fell from the hon. member for Calne, to whose great talents on that occasion he was ready to do full justice; but since he was bound to speak out, he would assert that he could not join with the hon. member for Winchelsea, in the opinion that it was as temperate as it was able. More he would not say; so much he felt it necessary to say. The honourable member for Calne had asserted that it was most improper that Mr. Hope and the other sheriff depute should be counsel in a case of this nature, for the purpose of operating, perhaps fatally, on the interests of an unfortunate gentleman about to take his trial for his life. In what a country did we live if such an imputation could be thrown out against a gentleman who was not allowed to defend himself on account of the privileges of the house? He (Lord Binning) should have been ashamed of his relation if he had not instantly come forward with an indignant contradiction. He of course could not act like a person wholly uninterested—like a man who stood at his elbow to advise him; the envenomed shaft had been sent forth, and it had struck into his side. An indignant and a complete refutation had therefore on the instant been penned by him, and published with all possible rapidity. In his letter he supposed the honourable member for Calne to have acted upon information, or rather upon misinformation of the grossest kind. He might be surprised, also, that the honourable gentleman (Mr. Abercromby) was not aware of the practice of Scotch bar with regard to signing papers; and it certainly was to be regretted that the honourable gentleman had not read more of the answer, which would have afforded the explanation; for he (Lord Binning), though no lawyer, could have explained the circumstance, and could have shown that it was quite clear that Mr. Hope was not counsel in the case. Certain documents must be signed by a lawyer, in order to entitle them to admission into a Scotch Court. Sometimes they were delayed until the last moment, he had been credibly informed that counsel on the opposite side had put their names to answers or pleas in order to prevent a delay of the suit. Mr. Hope was naturally provoked to find this imputation thrown upon him, when a single word would have removed it. He possessed as pure, as unimpeachable, as unsullied a character, as any hon. gentleman present, and he possessed a degree of ability for which the house which had heard him would give him credit. The charge of the hon. member for Calne was perfectly regular and proper, had it been founded in fact, but there was not a word of truth in it from the beginning to the end. Would not the house, then, consisting of spirited, high-minded English gentlemen, make allowances for the distressing situation in which Mr. Hope was placed? (hear.) He had not merely to complain of the speech of the hon. member for Calne, but of the hon. member for Knaresborough (Sir J. Macintosh), who was proverbially known as a man of great temper and moderation, and of the greatest amenity of deportment. It was deeply to be regretted, therefore, that he gave the weight of his character to the zeal which appeared to have animated the honourable member for Calne. What would the people of Edinburgh say of what fell from him? They would immediately conclude that there was but too much justice in the complaint, and there must have been some solid foundation for the zeal that was displayed. It was material not to forget, also, that the answer was signed in January, while the fatal duel did not take place until the 26th of March. The present was not the fit occasion for entering into the case of Northwick, Mr. Hope, he agreed was still as it were upon his trial; and

he (Lord Binning) hoped that the house would not adopt a course that would prejudice him in the eyes of the nation before that trial took place. The letter, in its warmth might contain some imputations of motives; and the honourable member for Winchelsea called upon the house to say whether, when it would not allow members to impute motives, it would give that right to strangers. But had no bad motives been imputed to Mr. Hope? If the charge had been made against a member, would he not have risen indignantly to repel it, and would not the house have felt strongly for him, even if he had made as victorious a statement as that of Mr. Hope? Was he to be debarred from the use of terms which were used by every Englishman who felt himself aggrieved? He had been brought from Scotland at a considerable expense, and with great professional inconvenience: he had been made the common gaze of the house, yet all this was to be considered a mere expedition of pleasure. The utmost that would have happened to a member would have been to be called to order for employing such expressions. True it was that the house had come to a vote that the letter was a breach of privilege: it had done so hastily, though he (Lord Binning) had not opposed it when he knew the good motive that induced a proceeding so rapid. The question now was, how that breach was to be visited upon Mr. Hope, and he (Lord Binning) trusted that the house in making up its mind would remember that the privileges of the house might be pressed too far. This breach was founded upon another, the publication of the debates—a daily breach of privilege: he did not say that it ought not to be connived at, but when it was allowed, it was but common justice not to visit severely an offence merely growing out of it, and which might with greater justice have been punished a century and a half ago. He was extremely anxious to omit nothing that could be urged on behalf of his learned relation, but he would only add few further observations. It ought to be recollected that Mr. Hope belonged to a narrower society than that of this metropolis: matters that almost escaped observation here, there became topics of vast importance. The charges of the hon. gent. went into that narrow circle; and what a temptation was afforded to Mr. Hope to clear up his character among his friends, in a place where he was to spend the rest of his life, that might be rendered respectable or degraded by the success of his attempt. It was undeniable that in parliament much was said in the vehemence of party spirit, and many allowances were accordingly made, and there was a time (and the hon. member for Calne remembered it) when party spirit in Edinburgh ran higher than at present, and he appealed to the house whether it was not likely to be quite as strong among the Whigs as among the Tories? If Mr. Hope had not taken this step towards his vindication, it would have been impossible for him to have pursued his professional duties; as far as it went, it was complete; and the house would probably think, that under all the provocations, it might be pardonable to give a little vent to the ebullition of his feelings. In what the house had seen there was every thing to recommend him to its favourable consideration, and his lordship hoped that the speech of the honourable member for Winchelsea would not induce it to proceed with greater severity than was recommended by the hon. member for Exeter. (hear.)

Mr. ABERCROMBY spoke as follows, the utmost silence being observed:—I hope the house will do me the justice to believe that there is nothing further from my intention than to oppose the wish just expressed by the noble lord. In what I am about to offer, I assure the house that I am not about to reason, but simply to state facts; but before I proceed I beg to state my unfeigned sorrow and concern that any act or conduct of mine should have so much occupied its time, and prevented the devotion of its attention to matters of public importance. In what I did, I was guided by what I considered an imperative duty; I freely own that the discharge of it was extremely painful at the moment, and that it is extremely painful in the retrospect; but I acted according to the dictates of my deliberate judgment. Much has been said regarding my statement in the house, as to Mr. Hope. I read Mr. Hope's letter; the house well knew how strong an impression was generally made by it, and it may judge how strong was its impression upon me. Having, however, the honour of a seat in this house, I then thought, and still think, that to it only I am responsible, and that to it only I ought to explain. (hear, hear.) I have therefore since remained perfectly silent, and I may add that no person has been authorized on my part to make any statement upon the subject. To make it now is my intention. I could offer to the house, if it were fit and reasonable that I should do so, some facts and circumstances connected with the occasion, which I am quite sure would justify me in the mind of every impartial person; but I wish to abstain from doing so, and to limit myself to a very narrow compass. With reference to what I stated on the night in question I now affirm in the most positive manner, and upon the most accurate recollection, that I read the passage of the answer upon which I relied; that I read the two names of the gentlemen whose signatures were affixed, in the form in which they were affixed in the copy of the record which I held in my hand; it was contained in a printed copy of Mr. Stuart's trial. I added this:—"I do not know how far these gentlemen may be severally responsible for this paper; but, for the purpose of my argument, that is to

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me a matter of indifference, because both those gentlemen hold the situation of advocates-depute, and only in their character of advocates-depute do I introduce them." Thus, I am satisfied, is the statement I made on the most perfect recollection. I beg now also to say, what I trust the house will give me credit for—that I was not aware of the practice prevailing at the Scotch bar. It may perhaps be as well to state what circumstance prevented my being aware of it. When first I heard of the answer, it was read to me from a copy of which an individual was in possession: it was long before I made my motion; I believe before I had given a notice of it; and I am sure many weeks before I thought of introducing it into the detail I offered to the house. Nothing was then said about the signatures, because we were only talking of the substance of the paper. I bore it distinctly in my mind, though I never looked into it until I arranged what I should offer to the house. It was then that my attention was called to it, and it was then that I guarded myself in the way I have already mentioned. "I find (I said) the names of both gentlemen affixed to the paper: what share they had, I do not know; but for the purpose of my argument, it is enough that they are both advocates-depute, and only in that character I touch them." I will now state another fact on which my recollection serves me most completely, and on which I must be the best of all possible judges, because I must know my own motives, and the view I took of the cause. It has been said that it was necessary to fix Mr. Hope as counsel in the case of Borthwick. That I entirely deny. I stated Borthwick's case at the time to be that which it is my firm conviction it was—a case of great oppression, and that that oppression had in part for its motive the influencing of the trial of another party. That is the charge I made; that is the opinion I still entertain: and that is the view which, as far as depends upon me, I am ready to support. These are the two more prominent facts to which I was anxious to advert. As to the statement also regarding Mr. Hope's name being affixed, the house will perhaps bear in mind that I said at the time that the paper had been commented upon by judges in a court of justice—I was not the person who gave it publicity. On the 20th of June (my motion standing for the 25th), I was in possession of a printed copy of Mr. Stuart's trial, with the paper signed in the precise form in which I read it to the house. I did not know that there existed any contradiction or explanation of the particular paper. I do not wish to reason, as I before observed, but to state facts; and those who have read the letter of Mr. Hope to Mr. Renner, will feel how important is the circumstance I last mentioned. It was to explain these matters that I rose, and I will only add that if any person had stated to me that I had been guilty of an error, a misconception, or of a mis-statement, that I had been led to assert that which was mistaken in a manner in which I could with propriety have attended to it, I should have been the first person to bow my head to correction. (Hear, hear.) I trust I may assert here where I am known, that there is nothing in my feelings, understanding, or character, which would have prevented me from admitting my error, and from doing as justice, good faith, and truth required. (Hear, hear.) I hope the house will do me the justice to believe that in whatever I have done I have been anxious, as far as depended on myself, to reconcile the obligations I owed to the house as one of its members with the obligations I owed to my own character and honour. (Hear, hear.) I am now only desirous of saying, that though I am anxious in my individual capacity, as far as is fit and proper, to support what I conceive to be the real privileges of the house, I should have been wanting in justice to myself, if I had not stated what the house has been pleased to hear. I repeat, that if I were applied to in a distinct, intelligible, and proper manner, to explain any thing that had fallen from me in the course of debate, I should, I trust, conduct myself as every generous and candid man would conduct himself. (Hear.)

The Marquis of LONDONDERRY hoped, that neither the zeal of his noble friend (Lord Binning) nor the warmth of the hon. member for Winchester, would interfere with a temperate conclusion by which the anomaly of privilege might be reconciled. He would not attempt the vain task of discussing this subject with the hon. member for Westminster, but he was well convinced that the letter of Mr. Hope was a breach of privilege. It was true that the publication of debates was in itself a breach of privilege, but he considered it essential to the public interest after the number of years it had been committed. It was unquestionably to be tolerated, if it could exist without leading to evils, which would leave the house no resource but to shut its doors and deny the public all knowledge of its proceedings. The breach of privilege now before the house was in the second degree; for if the publication of debates were allowed, it must lead sometimes to inconveniences of a serious nature. Recollecting that Mr. Hope was counsel only in the private case of Mr. Alexander, he (Lord Londonderry) put it to the house whether he would repel the attack upon him without at least glancing at political motives: it was difficult not to transgress the strict line. It remained, then, to be considered what proceeding the case required, not forgetting that Mr. Hope, feeling his character at stake, had balanced between a breach of privilege and his own vindication. His lordship was of opinion that if the learned gentleman were called to the bar, and

the resolutions of the honourable member for Exeter read to him, though the word admonition was not used, that it was at least implied and intimated, and that the indirect censure would have the same effect as a motion of greater severity.

Mr. TIERNEY said, that the great object having been attained, all that remained now was to see that the further proceeding of the house was consistent with its usages, and becoming its character. He could not concur in the resolution of the honourable member for Exeter, for if it were adopted, no gentleman could return home with greater triumph than Mr. Hope: the object of the house under the circumstances ought not to be either to degrade or to elevate him, but to steer a middle course. A great difficulty would be removed, if he could understand what was meant by the word explanation as applied to what Mr. Hope had offered. The impression upon his (Mr. Tierney's) mind decidedly was, that no satisfactory explanation had been given; for the utmost that his friends said for him was, that he had shown no disposition in his speech to offend against the privileges of the house. He had said, however, that he had published his letter at the risk of violating them. He (Mr. Tierney) called upon his right honourable friend opposite (Mr. W. Wynne), so laudably learned in matters of this kind, to say, laying his hand upon his heart, that the explanation of Mr. Hope was any thing like a fit atonement for a breach of privilege. It was said by some that no atonement was required, because this breach of privilege was founded upon another. He was fully sensible of the advantage to the country of the publication of the debates of parliament: it was now impossible to put an end to it, and nothing could give him (Mr. Tierney) more pain than any attempt to abridge it in the slightest degree. But the noble lord (Londonderry) had asked, "Can you blame this gentleman, if having seen the reports of a speech reflecting on his conduct, he had felt it necessary to notice the charges that had been brought against him? God forbid that any thing which he (Mr. Tierney) said in that house should be supposed to tolerate the principle, that a man's character should remain for four or five months under an unpleasant imputation, without any effort being made to set it right, merely because he was not a member of parliament: but was there no other manner in which an individual could relieve his character from imputation, except by an attack on the person who, in the course of his public duty, had felt it necessary to allude to him? All he asked was, that the person making what he conceived well-founded observation, should be protected as a member of Parliament; he did not ask that the other party should not have an opportunity of justifying himself. (Hear, hear.) Now there were several modes of justification. The first direct course was by petition to the house; stating that the aggrieved party understood his character to have been made the subject-matter of charge in the house, and praying that the facts should be investigated. What was there to prevent this mode being adopted? In the second place, what was there opposed to his publishing a statement of the case? Why might he not, in his own defence, oppose fact to fact, in the shape of a regular statement? There certainly was no difficulty in this course; but he must confess, the first mode did appear to be entangled in some degree of difficulty. (Hear, hear.) If, however, they suffered a proceeding of this nature to pass uncensored, there would be an end to all public inquiry—there would be no possibility of entering into an investigation of public abuses. (Hear, hear.) Who would proceed against a great delinquent, if, in the course of the accusation, they were obliged to mention other persons, all of whom would immediately rush forward, not in defence of themselves, but for the purpose of attacking the individual who brought forward the charge? (Hear, hear.) The noble lord had stated that the case of Borthwick was under consideration, and that they should wait for a decision on it before they proceeded farther. But what good could that do? Many things might occur in the course of the inquiry, calculated to lead to expressions which might also be found offensive; and was the person who brought forward the business to be subjected, during the progress of the inquiry, to the mortification of having his name loaded with unjust accusations? No man who heard him could contend for such a doctrine as that. But Mr. Hope, it was said, considered himself, as in some degree, reprimanded. Now, he would ask, where a proceeding could be pointed out, in which a breach of privilege was complained of, and the party before the House acknowledged himself to be the author of it, in which nothing was done by the House, except stating "that it was satisfied with the explanation given."—Nothing of that kind had ever occurred. If the person at the bar were mistaken in a fact—if he expressed some rition for what he had done—or if he declared his sorrow for using intemperate expressions—in any of these cases, the house would view his conduct with lenity. But it was useless to say, "We will proceed no farther on account of this explanation," which was merely an admission of the breach of privilege. If the house merely read the resolution that had been proposed, and which mentioned no sufficient cause for dropping further proceedings, it would be a complete triumph to Mr. Hope, and such a triumph as he ought not to be suffered to enjoy. (Hear, hear.) He demanded whether that would not be the real result of this proceeding, if nothing else were to be done? (Hear, hear.) But how easy was it to introduce some words, showing that the

house did recognise their resolution as a reprimand for doing that which *nemine contradicente*, they had considered a breach of privilege? (Hear, hear.) That was all he asked. But, from the manner in which Mr. Hope's speech was received, he was inclined to think that he perhaps asked more than would be conceded. (Hear, hear.) Mr. Hope's address was followed by plaudits even before he left the house, and they came from some quarters in which he conceived silence would have been equally commendable. (Hear, hear.) He therefore did not mean to move any amendment to the resolution. Mr. Hope heard the shout of triumph which had been raised by his friends, and so did he (Mr. Tierney.) He would leave those with whom the proceeding originated to shape it as they pleased. He would offer no amendment. But, if they said, "We will go no further than this resolution," he could not consent to it. He would oppose the resolution, unless it were altered by the introduction of some moderate words, expressive of the feeling of the house. If any gentleman thought such an alteration improper, he would, of course, state his reasons, and probably he would bring him (Mr. Tierney) over to his opinion. To state merely, that on account of an explanation, which was shut out of the resolution, the house declined proceeding farther, was not satisfactory to him. He wished something to be introduced to prove that the house considered the breach of privilege as an offence deserving of reprimand, and, if it fell short of that, he could not vote for the resolution. If they passed that resolution as it now stood, they would most effectually shut the door against the accusation of all public delinquents—against the institution of all public inquiry. (Hear, hear.) There was no sense in saying, "Let us first proceed with the case of Borthwick;" which he thought was a case of the most gross and unjustifiable oppression. (Hear.) If the present complaint were passed over in the manner proposed, it would be impossible to bring forward any case of oppression without being attacked out of doors. There was not a young man in the house, who had a friend of common caution or prudence to advise him, to whom, that friend would not say, "Beware of entangling yourself in any public accusation. If the accused party be protected by those in power, the house of which you are a member will not stand by you, and you must abide the consequences." (Hear, hear.) He thought he asked for nothing unreasonable, when he asked for the introduction of words avowing of reprimand, showing that the house disapproved of such conduct, and that they were not satisfied to dismiss the party, merely because the offence was committed in a moment of irritation. He had not the least wish to push the debate farther—he would not offer any opinion on that was likely to interrupt the unanimity of feeling which appeared to prevail in the house. With an expression of the kind to which he had alluded, he would be perfectly contented; but short of that, he must look on the proceeding as derogatory to the house. (Hear, hear.) He was always a supporter of the privileges of the House of Commons; so much so, that when those privileges were invaded, he had deemed it to be his duty at times to vote in opposition to his friends. He lamented when such subjects were brought forward; but when the question came to "ay" or "no," he had always raised his voice in favour of their privileges. (Hear.) In this instance, they ought to speak plainly; for there was no use of debating within doors, if they were not protected from violence out of doors. He said "violence," because the conduct of persons out of doors might be of a nature so violent as to lead to the most melancholy effects, before to-morrow's sun arose, if they misconceived the object or intentions of an individual, while discharging a painful duty. (Hear, hear.) Gentlemen ought therefore to be protected in order that they might be encouraged to persevere in their duty. (Hear, hear.) He required nothing vindictive against Mr. Hope, but such an entry ought to be made on their journals as would show that the house would reprimand or express its censure against any person accused of a breach of its privileges, who admitted himself to be guilty of that offence. (Hear, hear.)

Mr. W. WYNN said, he always experienced the most painful sensations when it was found necessary to call any one to the bar of that house. The present was not a mere technical breach of privilege, similar to the publication of their debates. If it had, it would have been highly inconvenient and most unwise to advert on it. He considered this as a most material breach of privilege, because it interfered with that freedom of speech without which the house could not discharge its most important and sacred duties. (Hear, hear.) It distinctly affected the freedom of speech, not only by comment, but by attributing unworthy motives to an hon. member. If this were allowed, what must be the consequence? Why, the members of that house would be compelled to descend to the same arena before the public with those who pleased to attack them. (Hear, hear.) The publication of their debates had been tolerated, but not authorized; and in his opinion, this course was a wise one; because, if it were authorized, gentlemen would become responsible for the words which were attributed to them; but as it was merely tolerated, no person was called upon to state what he had said in that house, or to declare whether he did or did not make use of the language attributed to him in any public paper. If comments were allowed on the proceedings of that house, gentlemen must either answer

such attacks in their places, or they must enter into controversies before the public; and either course he considered to be most inconvenient. With respect to the report of the debates of that house, it was a very extraordinary thing that they were in general given with so much accuracy. Considering the haste in which they were written and printed for a few hours only intervened between the delivery of a speech and its publication, it certainly was surprising that they were so accurate. But they must know that misrepresentations did often take place. Sentiments the very opposite of those stated, were sometimes put into members' mouths. Now, he would ask, whether it would be at all advantageous to correct those mistakes constantly? and yet it would evidently be of great importance if gentlemen were obliged to answer for every statement which appeared in the papers, as if coming from them. If attacks, founded on reports of speeches, were allowed to be directed against members, it appeared to him that they could not discharge their duty to the nation. There were the reasons that induced him to view this as a real, serious, and substantial breach of privilege; and therefore he gave his vote for calling the individual to the bar, to answer for the offence. But, though his conduct was such as could not be justified, it might perhaps be extenuated; and he hoped it would receive every extenuation that could fairly be extended to it. Mr. Hope had stated what his feelings were at the time he committed the offence; and, considering the infirmities of human nature, one could not wonder that, under the influence of irritation, he had acted rashly. He conceived himself to have been referred to, in his capacity of advocate, and his character to have been unfairly described throughout the kingdom. Did that form a justification for him? Certainly not. Had he animadverted on the statement contained in the newspapers, not assuming that statement to be correct, it would have been no breach of privilege. But he assumed the statement to be correct, and then he imputed motives to the hon. gentleman who brought the question forward, and censured him for those alleged motives. This was a breach of one of the most valuable privileges of the members of the House of Commons; for what they uttered within those walls they were not accountable in any other place, nor to any other authority but that of the house itself. Under these circumstances all he had to do was to lay hold of every circumstance that could be adduced in extenuation of the offence. Considering the error as one that had arisen from the infirmity of human nature, rather than from any design to infringe the privileges of the house or to hurt the feelings of any member, considering, also, that he had expressed his concern and regret at what had occurred, he trusted the house would act with lenity. (Mr. Tierney, we believe, dissented from the statement that Mr. Hope had expressed regret.) So at least he understood what Mr. Hope had said; and it might be introduced in the resolution, "that in consideration of the regret he had stated, the house would proceed no farther." (Hear, hear.) This, he thought, might be allowed. If the resolution were carried without such a statement, it might operate prejudicially hereafter. It might be said, if they went farther in future cases, that they acted with partiality, since in the case of Mr. Hope they were contented with a simple explanation, unconnected with any statement of contrition. There were, indeed, cases (but in his judgment they ought not to be followed) in which people were called to the bar, and the farther proceeding was immediately adjourned to a day before which it was known parliament would be prorogued. That course he did not think at all advisable; and considering the importance of the case, and the interest which it had excited, he thought it would be disgraceful for the house to adopt it. (Hear, hear.) But, in his opinion, the words which he had quoted might be introduced with great propriety.

Mr. CANNING wished it to be understood, that in supporting the motion which had already been disposed of, he did not assent to the propriety of any resolution expressive of reprimand. In the situation in which the house was then placed, they must come to this consideration—whether Mr. Hope had done any thing as a purpose and intentional violation of their privileges; or whether, having the great duty cast on him of repelling unfounded imputations, and vindicating injured honour, he had only taken the readiest method of effecting that object. It was stated by some gentlemen, that this was a question solely between the house and the offender. It was, undoubtedly, the fact, that if persons out of doors took upon themselves to fix on individuals, and called on them to account for their language in Parliament, it became a grave and serious question, and the house was bound to look into it. But gentlemen seemed to forget that there was a third party in this case through whom the proceedings of the house were made public in their transit. He spoke of the reporting press, which was the creature of their toleration; and over which, he, who was injured by its reports, had no control. Was he questioning the expediency of that toleration? No such thing. It was now so engrafted on the constitution, that if desired, it would be impracticable to remove it; and to abolish it, if it were practicable, was the last thing to be desired. But with its advantages, it had also its inconvenience. Between the two they must make up their minds. Now what was the case before them? An ardent and honourable young man felt himself injured by what had been published, and he had acted on his

impulse of the moment. He asked, what would have been the honourable and learned gentleman's own feelings, if, living far from the metropolis, and moving, to use the words of Mr. Hope, in a narrow circle of society, composed either of political friends who mourned, or of political adversaries who triumphed, in his degradation, what would have been his feelings under such circumstances? Every man ought to consider what his feelings would be in such a case, before he asserted that he would pass over, unnoticed, the observations which Mr. Hope had resented. The hon. and learned gent., with reference to whose speech this discussion had arisen, and whose conduct in and out of that house challenged his esteem, so far as his comparatively trifling intercourse with that hon. gent. enabled him to judge of it, had inexpressibly relieved his mind, by stating that he was ignorant of the custom of the Scotch bar which allowed gentlemen to lend their signatures to each other. At the time when the business was brought forward, he was quite ignorant of this practice, and he believed almost all those who heard him were equally ignorant of its existence. When he found the names of Hope and M'Neill appended to a case, with which, if Mr. Hope had been concerned, it would have formed a basis for all the imputations that were cast upon him, but which, if it were not so, would have no foundation whatsoever, he felt the circumstance most powerfully. When he heard that statement of the learned gentleman which implicated Mr. Hope in the proceedings to which he had alluded, he thought a case was made out which called for explanation, and which placed the character of Mr. Hope in jeopardy. He applied to the noble lord (Binning) with very great anxiety of mind—he did not appeal to Mr. Hope, of whom he had no knowledge—to explain this circumstance. The noble lord, who knew the practice, stated, that the affixing of Mr. Hope's signature was merely a technical and official form, not a substantial act. But the mistake which he had thus detected pervaded the house. It was a mistake on the part of the honourable and learned gentleman; and it was calculated to mislead those who had not the hon. and learned member's means of arriving at a knowledge of the fact. That mistake pervaded not only the house, but the public; and the morning after it had gone forth, the minds of 10,000 individuals throughout the wide expanse of England were poisoned with the idea that Mr. Hope had entered into an unjust and shameful plot, for the purpose of prejudging a trial. Was it possible for any man to sit down under such an imputation? (hear, hear.) It was not. The first thought that would enter the mind of any individual would be with respect to the mode in which his character could most speedily be cleared from such an accusation. It had been said, that if the hon. and learned gent. had been called on to correct this misstatement, he would have been perfectly ready to do so. If he (Mr. Canning) had been the friend of Mr. Hope, he certainly would have suggested that course; and he lamented that he did not adopt it, instead of that which he had pursued. But the house must be aware, that even that course was liable to much difficulty. He had no doubt but that the hon. and learned gent. would have acted on such a suggestion; but it might so happen that explanation would be asked from a person who would not give it; and then his only resource would be an appeal through the medium of the press. There was, it had been observed, another mode open to Mr. Hope—he might have addressed a letter to the editor of a newspaper, stating that such and such representations had appeared in his report of the learned gentleman's speech, assuming that they must be false, and taking that opportunity of defending himself. He might have done so; but was there any difference between the two courses but this—that in the one case he did that directly, which, in the other, he effected in a circuitous and indirect manner? If they were to have the advantage of letting go forth to the public, the first impressions which were conceived by gentlemen in that house—impressions often just, sometimes doubtful, and not unfrequently incorrect—they must feel that individuals would occasionally, in consequence of this system, be placed in situations so intolerable that they would use any and every effort to extricate themselves. He heard nothing in the speech of Mr. Hope that could be considered an aggravation of his offence. He began by expressing his sorrow for the breach of the privileges of that house—privileges not granted for their advantage, but for the benefit of the people, to protect whose interests they were assembled there—he declared his affection for those privileges—and he offered a statement of facts, which if not correct, were capable of immediate and direct contradiction. He stated, that he acted under much irritation of feeling, and did that which he could not but be aware was trenching on the privileges of the house. He admitted that he ought not to have done so; but that he must have forfeited the high character which belonged to his situation, if he had not noticed the imputations that were thrown upon him. He felt that bowed it to his situation in society, to his professional character, and his personal honour, to act as he had done; and that under these circumstances, he could not be stopped by the fear of any consequences which might ensue from the step he was impelled to take. The question, therefore, was not whether they would treat Mr. Hope as one who questioned their privileges, as one with whom it was an object to degrade those privileges, but whether they would not treat him as one who, acknowledging all the benefits of those privileges, and being as anxious as they themselves were for their maintenance, had committed a breach of them in consequence of im-

putations that were no way equivocal but which deeply affected his professional progress, his personal honour, and his general estimation in society? The question with Mr. Hope was, whether he should leave his honour undeviated, or risk, in its vindication, the chance of committing a breach of the privileges of that house? Highly as he venerated the constitution of that house, and deeply as he must feel and regret their displeasure, he found himself placed in such a situation that he was compelled rather to risk that displeasure than to suffer imputations to rest on his character, without making his best efforts to repeal them. He saw in Mr. Hope's statement nothing that could give offence, he saw nothing that could call for reprimand and animadversion. He would have added to the technical crime of violating the privileges of the house, a much greater crime—that of deceiving and misleading parliament—if he had not stated his real sentiments and feelings. Mr. Hope had been placed in a painful situation; he had to choose between their displeasure, and his own lasting disgrace. He had chosen rather to risk that displeasure than to seal his disgrace and degradation. (hear.) He hoped that in choosing this manly part, Mr. Hope had also selected the safer course. He hoped that in vindicating his honor, the house would see nothing that should induce them to send him back to Scotland, suffering under disgrace and imputation of a different kind from that which he had already combated. (hear.)

Mr. ABERCROMBY said, he was sorry the right hon. gentleman did not appear to understand what he had stated with respect to Mr. Hope's signature. When he quoted the paper, which he stated to have been signed by Mr. M'Neill and Mr. Hope, he did not use it with any reference to the trial of Mr. Stuart. He stated that one of the consequences of this opinion, coming from the advocate-general, was to place Mr. Stuart in that situation which led to the circumstances that ultimately occasioned his trial. His statement was wholly unconnected with the trial of Mr. Stuart, further than that the opinion tended to produce the circumstances which caused that trial.

Mr. CANNING said he understood at first that the signatures of J. Hope and D. M'Neill were of equal authority on the paper to which they were affixed; but he had since learned that the signature of Mr. Hope was a mere technical form, placed on the paper to oblige Mr. M'Neill, but giving Mr. Hope no authority in the case.

Lord A. HAMILTON said there appeared to be abundance of sympathy for the gentlemen who had been brought to the bar, but there was no sympathy whatever for his honourable and learned friend. The right honourable gentleman had called on every individual in the house to place himself in the situation of Mr. Hope before he decided. He had no objection to this; but he trusted that gentlemen would also place themselves in the situation of his honourable and learned friend, who had been most grossly attacked. He would ask whether one or two sentences in Mr. Hope's letter to which he would draw the attention of the house, could have been used in a bona fide way for the purpose of self defence? (here Lord A. Hamilton read a passage from the letter in which it was insinuated that Mr. Abercromby had acted upon the wilful misrepresentation of others.) Was not this, he demanded, a direct personal attack? There were several other attacks of the same kind in the letter. But, notwithstanding the system of slander which had been tolerated, he would continue to do his duty in that house, and he would vindicate as far as he could the conduct of his learned friend. His learned friend had acted very properly in bringing the subject before the house, and they ought to take care that hon. members should not be treated, in future, as he had been. In his opinion the vote now proposed did not meet the case of his hon. friend; and what was most important, it was not calculated to prevent abuses of a similar description in future. It would be painful to him to press for a severe resolution; but he could not so far sacrifice his duty to the house, as to concur in a vote that declared a breach of their privileges to have been committed, and proceeded to say that they would go no farther with the business.

Sir J. MACKINTOSH said, he did not rise to make any hostile observations, or to resist any lenity which it might be the disposition of the house to extend to the hon. and learned gentleman. He would merely occupy their attention for a minute or two, on a point that concerned himself. After the appeal of the noble lord (Londonderry) and of the hon. member for Rochester (Lord Binning) he must declare that he entirely concurred in the statement of his hon. and learned friend. Like him, he was perfectly ignorant of the practice of the Scotch bar with respect to lending signatures. It was a great mistake to suppose that the case of Borthwick was at all prejudged by the proceedings in that house. The whole of that extensive case remained for future inquiry. Nothing that was said within the walls of that house could alter it.

Mr. CANNING denied that the passage read by Lord A. Hamilton from Mr. Hope's letter bore the offensive construction which the noble lord had put upon it.

Mr. BROUGHAM inquired whether the learned gentleman (Mr. Courtenay) had any objection to adopt the suggestion first thrown out by his right hon. friend (Mr. Tierney), and afterwards approved of by the President of the Board of Control?

Mr. COURTENAY said he had not. He then read his amended resolution, into which he introduced Mr. Hope's "expression of regret," as one of the causes which induced the house to proceed no farther in the business.

Mr. BROUGHAM trusted, that the important words "under all the circumstances of the case" would not be lost sight of by the hon. and learned gentleman. Unless they were introduced as distinguishing this case, he could not vote for the motion consistently with the votes he had given on former occasions, when persons in an inferior station of life; printers and newspaper reporters, were brought to the bar. He, for one, could not suffer the case to pass, if it were not for the peculiar circumstances of Mr. Hope.

Mr. COURTENAY said, the circumstances of the case formed the most peculiar ingredient of his resolution.

Lord A. HAMILTON said, he hoped the resolution did not put words in Mr. Hope's mouth which he had never uttered. For his own part, he did not hear any expression of regret.

Mr. COURTENAY hoped the noble lord would do him the justice to believe that he would not act so disingenuously.

The resolution was then carried—one or two voices only being raised against it.

Mr. Hope was then called in, and being placed at the bar,

The SPEAKER said—"Mr. Hope I am directed to read to you the following resolution:—

"That John Hope, Esq., having acknowledged himself the author of the said letter, is guilty of a breach of the privileges of this house.

"And I have farther to inform you, that under all the circumstances of the case, and having taken into consideration the explanation given by you at the bar, and the expression of regret at the violation of its privileges, this house does not feel itself called on to proceed farther with this matter. You may withdraw."

Mr. Hope then bowed, and retired.

Mr. COURTENAY moved, "That Mr. Menzies be called in."

Mr. Menzies being placed at the bar,

The SPEAKER said, "Mr. Menzies, I have to inform you, that, on the 9th of July last, a complaint was made to this House of a letter addressed by you to the editor of the *Courier*, and published on Monday, July 8, alluding to a correspondence with the Hon. J. Abercromby, and containing your observations on that correspondence, which the House has resolved to be a breach of its privileges."

The paper signed "W. Menzies" was then handed to Mr. Menzies, and he was asked whether it had been written by him."

Mr. Menzies answered in the affirmative.

The SPEAKER stated then, that if Mr. Menzies had any thing to say in explanation, now was his opportunity for doing so.

Mr. Menzies spoke in so low a tone of voice that, standing as he did at the bar, his meaning was with difficulty caught in the gallery. He felt most anxious to assure the house of the profound respect which he entertained, and always had entertained, for their privileges. But he would shortly state the circumstances which had called forth the writing now before them. A report of a speech made in that house had reached him. In that report he found a severe attack upon his conduct. He found that gross injustice was done to his motives by a false statement of his professional proceedings. If this false statement had originated with the newspapers, he considered it indispensable for him to correct it. If, on the other hand, it had really been made in that house, he had been sure that it had been made in consequence of false information. He had therefore applied by letter to the hon. gentleman for an explanation of the fact, whether the statement as set forth in the newspapers was correct. To his application he had received an answer, that the honorable gentleman was not responsible for any reports in the newspapers, but that what he had said was fully supported by the statement in his own letter. Now, as that statement did not support the reports in the newspapers, he understood this to be evidence that the reports were false. If he had understood it otherwise, he would not have applied the term false to the statement of the honorable gentleman. He had written the paragraph now complained of, under the impression that what Mr. Abercromby had said coincided not with the statements in the newspapers. Considering the statements in the newspapers false and calumnious, he could not retract a word of what he had applied to them; but he solemnly declared that he had not had the slightest idea that what he had done was any violation of the privileges of that house.

Mr. Menzies having been ordered to withdraw,

Mr. W. COURTENAY said, that he thought the explanation quite satisfactory, and that no further proceedings should be adopted. (Hear, Hear.) He moved that Mr. Menzies be discharged.

Mr. BROUGHAM seconded the motion, and expressed his opinion that there was a full vindication of their privileges without proceed-

ing further. The gentleman had distinctly declared that he had no view of breaking the peace, and no idea of violating the privileges of the house. He was happy that they came so readily in this case to a termination in which the privileges of the house were as safe as the honour of all parties. (Hear.)

The motion was agreed to unanimously.

The CHANCELLOR of the EXCHEQUER moved that the house resolve itself into a committee of supply.

TURKISH FRIGATE IN THE RIVER.

Colonel DAVIES rose to put a question to the noble marquis opposite. A Turkish frigate was now providing itself with arms and stores in the river. It was a frigate of 56 guns. It was now receiving guns, warlike stores, and above all a British crew. He had been on board of this frigate a few days ago, and had been informed that there were 14 or 15 English officers, 250 English sailors, and 34 Turks. He asked whether it was the intention of Ministers to allow this gross violation of their own law against foreign enlistment?

The Marquis of LONDONDERRY could assure the gallant officer that the object of Government was to maintain perfect neutrality. The frigate in question had come to this country from the Pasha of Egypt with such remains of antiquity as were valued in this country, before the breaking out of the war between the Turks and the Greeks. She had not come as a ship of war, but bringing antiquities and a cargo of linseed. The Pasha of Egypt had made a request, as he had a title to make, that two frigates might be purchased for him in this country. The request had been refused, and expressly because it would be an infraction of our neutrality. Then the vessel now in the river was to be refitted. How far that vessel, having come to this country, not as an armed ship, but with a commercial cargo, could be connected with the laws of neutrality, was a different question. She was to be returned by us, not as an armed ship. The question next was as to the crew, there being not crew enough of Turks to navigate her. Mr. Brydges, the agent for the frigate, applied for permission to employ English sailors. No objection was made to employing English sailors to navigate her to Malta, the Pasha taking charge of her from that place, but the disposition was to man her with a foreign crew. The house would then understand, first, that the Government had positively refused purchasing two frigates; in the next place, that the ship was disarmed; and further, that military stores and guns had been refused.

Colonel DAVIES begged to say, that he had been told by the second, in command, that 250 sailors, with their officers, were to be engaged, that warlike stores were to be obtained, and that she was fitting out against the Greeks. (Hear.) This was no breach of confidence on his (Colonel Davies's) part, for there had been a large party on board, and the second in command had rather made a boast of it.

The Marquis of LONDONDERRY said he had made inquiry at the Foreign and Colonial Office, and had learnt what he had now stated. If the agent was doing any thing inconsistent with neutrality, the government were not aware of it.

Dr. LUSHINGTON could not reconcile the number of 250 sailors with the sole purpose of navigating the vessel to Malta. Only 60 or 65 men would be sufficient for this purpose.

Mr. C. HUTCHINSON begged the house to recollect, that the Pasha of Egypt was not independent, but a subject of the Porte. To allow so many men for the purpose of navigating the ship, was most absurd. The Pasha of Egypt had sent ships to assist the Turks in the Morea.

Mr. F. ROBINSON contended, that if this was a merchantman, there could be no objection to employing British seamen. If, on the contrary, she was a ship of war, it would be illegal to employ them, and they who engaged British seamen did so at their own responsibility.

Mr. BARING said that so one could be more alive to the importance of the subject than he was. It was important that this country should maintain a line of honour and peace on this subject. It was also important to preserve the appearances of doing so. It did so happen, however, that all appearances were entirely against us. It was evident to every one who travelled on the continent, that throughout Europe there was an impression—false he admitted, because the noble lord said so,—but labouring under this base imputation, that we were in every respect plainly aiding the Turks against the Greek, we must feel circumstances such as were now referred to particularly unfortunate. No one who had been in France could doubt the existence of this general imputation against us. The same impression prevailed in other countries. For our own reputation, then, whether the reputation was well or ill founded, it was very unfortunate that circumstances of this kind should arise to strengthen the imputation. (Hear, Hear.) However willing they might be in that house to place confidence in ministers, on the Continent he feared the same confidence would not be placed in their statements. (Hear.) It was a great misfortune for this country to labour under such an imputation.

ASIATIC DEPARTMENT.

—589—

Judges of the Supreme Court.

Now that the grave has closed over the late lamented Chief Justice of the Supreme Court, and sufficient time has been allowed to pass, in silent respect to the feelings of his particular friends and to the memory of the dead, it is time that the Public should begin to consider this event as it affects themselves. The late long vacancy in the office of Chief Justice by the precipitous departure of Sir E. H. East rendered it a subject of general congratulation when it was again filled up by one considered as so well qualified to discharge its duties ably and satisfactorily, and so peculiarly calculated by his personal virtues to secure the general esteem. His sudden removal therefore, while felt as both a public and private loss, so soon leaving the Bench in the same situation in which it had stood for many months, forcibly calls on us to reflect on the defective provision made for the regular and efficient administration of justice in the most important Court of Judicature in India. Should (which Heaven avert) the present venerable Judge, who is again left alone to discharge the laborious duties connected with his office, too much for any one man, sink under the arduous task, not only must the Inhabitants of Calcutta, and the British Inhabitants of India, lament it as a public calamity, but it must be a reproach to all who have it in any way in their power to lighten his labours and make before hand sufficient provision for such cases, that the even course of Law may never depend on the life or exertions of one individual, in a country so fatal to the European constitution, and so remote from the seat of the Supreme Government, that a vacancy by death cannot be remedied in less than twelve or fourteen months.

By the 13th Geo. III. the Court was to consist of four Judges in all, but afterwards this number was reduced to three, and as a demand may always be made upon it when the Recordership of Bombay becomes vacant, as in the late instance, it is evident that the Bench of Calcutta may very frequently be left in the precarious situation in which it has lately been. We would therefore suggest to the Inhabitants of Calcutta, and the British Inhabitants under this Presidency generally, the propriety of considering whether it is not their duty to take the matter into their serious consideration; and if they feel convinced, as we think they must be, by the events which have lately occurred, that some remedy would be advisable to provide against future casualties, that they should address a representation on the subject to the Government at Home. The advanced period of life at which Judges are likely to proceed to this country, and the laborious course of study and unremitting mental exertion which their profession obliges them to undergo, are not favourable to longevity; but without this consideration, or taking into account any sweeping distemper, from the mortality which generally prevails, it could not be considered any thing very extraordinary although two deaths were to occur in one year. No remedy that we are aware of seems adequate to the circumstances of the case, except a power lodged somewhere in this country to supply such vacancies.

The Members of the Bar present themselves as the only persons eligible; and there appears no reason why they should not in such cases be raised to the Bench, at least temporarily, or subject to the revision of the Authorities in England. We say temporarily or subject to the revision of the Authorities in England, as we feel very doubtful how far the Crown would delegate such an important part of its power; but we could wish it possible that such appointments could be fixed and permanent from the beginning, both because we fear nothing less would induce Barristers of such abilities and standing as to be eligible to the office to resign their professional practice; and that it would be a great public benefit were such only to be promoted to the Bench, carrying thither as they must do an invaluable fund of experience of the character of the people among whom they are to administer justice; instead of this high and difficult office being entrusted to persons who being strangers to the country must be, at least for a considerable time after their arrival in India, in a great measure destitute of that sort of knowledge which is essentially necessary to enable them to discharge its

functions in an adequate manner. It is worthy of remark that the late Sir Henry Blosset, the very first day he began to exercise the public duties of his office, confessed with an honourable candour that it would be presumptuous in him to make any observations to the Grand Jury about the mode in which they should discharge their duties in relation to the peculiar circumstances of this country; he modestly confessed his ignorance, and with a conscientious zeal, expressed his earnest desire to learn. Under this disqualification he necessarily laboured, in common with every Judge who arrives in India under similar circumstances; but all of them may not be so well aware of their deficiency, or manifest the same ingenuitiness in confessing and the same anxious desire to remedy it. How much more for the general interest it would be if such men as we could name, who have run an honourable professional career in India, were raised to the Bench; and future candidates for fame and fortune taught to look up to this as the crown of their laudable ambition?

We speak with the more pleasure on this subject, because at the present moment the Court affords an instance (but it may long be a solitary one) of this principle being put in practice.

The absolute necessity of this sort of practical experience, and that something more than mere theoretical legal knowledge is requisite, is, we think, admitted in the Act constituting the Court, in which it is ordained, that the Judges shall be "Barristers in England or Ireland of not less than five years standing." But since the character of the Natives of this country differs so very widely from that of the Inhabitants of Great Britain and Ireland, that a knowledge of the latter can be of little avail in an Indian Court, chiefly occupied with the former, it therefore seems reasonable to apply the provision in the Act properly to the circumstances of the case, that at least *five years practice in India* should in like manner be made a necessary qualification of a Judge of the Supreme Court. It is no doubt true that a Judge must, by practice, gain the necessary experience which he had previously to his appointment no opportunity of acquiring, and therefore these remarks would not apply to persons already for a considerable time invested with the judicial power; but how much injustice might be done during this period of self-tuition? and if we take into account the uncertainty of human life in this climate, and the eager desire of Europeans in general to return as speedily as possible to their native country, it is evident that in many cases, Indian Judges will resign their functions, just when they are properly qualified to exercise them; others, under the present system, will take their place, equally unqualified to fill it as their predecessors originally were; and after the same course of injurious experimenting, they will pass off the stage when the Public are beginning to reap the fruits of their dear-bought knowledge.

There is another point which should not be overlooked. The Chief Justice of a Court ought in all reason to be a person of higher qualifications than his associates in the office; because his superior station must give a more powerful influence to his judicial opinions, and his voice in a decision is of greater weight. This would be secured (as far as it is possible by any general rules which must admit of exceptions) were the senior Judge on the Bench to be promoted to the office of Chief Justice in case of a vacancy. We should then see long and arduous public services in an inferior station duly rewarded; not as at present merely by "superior weight of toils," but (the only adequate reward) by being raised to the highest rank in the profession both in honour and emolument. And we should then see this Court presided over uniformly by a Lawyer of tried abilities and experience, matured in this country, instead of such a one being subjected perhaps to a raw Barrister (possessing merely the important qualification of high patronage) whose name was probably never heard of in the English Courts, and who can know little or nothing of the country in which he undertakes the sacred and arduous responsibility of dispensing Justice.

If the Inhabitants of Calcutta, and others subject to the jurisdiction of this Court, are convinced from these observations that there are serious defects in the present Constitution of the Supreme Court, which loudly call for and admit of remedy; that casualties such as

the one which lately occurred ought to be otherwise provided for; that they could look up with greater confidence in the decisions of persons whose experiences had been matured and their reputation established among them;—it is their duty to declare their opinion, and to make a solemn representation on the subject to the Authorities at Home. Whatever might be the result of this, to make it is an act of public duty: and since the Court was established expressly for their benefit, and as a barrier to the encroachments of illegal power, should such be assumed by any Indian Government there is the strongest ground for hope that an application which had for its object to make this precious gift more conducive to their interests would meet with due attention.

Floating Prizes.

To the Editor of the Journal.

Sir,

A Correspondent of your's wishes for information respecting the Floating Prizes of the present Calcutta Lottery. The following is a copy of the Ninth Article of the Government Advertisement:—

"The Capital Prize of 100,000 Rupees will be a Floating Prize on the last Day of Drawing; and that of Sixty Rupees 60,000 from the commencement of the Sixth Day."

February 10, 1823.

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Something New.

THE BULL CONTENDING FOR AN UNLIMITED FREEDOM OF THE PRESS!

We have seen it repeated at least a dozen times in the pages of the BULL, that the JOURNAL and JOURNALIST had already fallen into such utter contempt that all further notice of them must be quite unnecessary. On the long agitated Question of the Travels in Palestine, it was more particularly assumed that nothing further could be necessary to stamp its Author with infamy. Already, the bulk of the Letters written on this subject by the "Society of Friends," would, if the Letters were collected, be much greater than the bulk of the Travels, on a small portion of which only they profess to comment. But all will not do! If the conviction which these Friends wished to establish were as universal as they pretend; why waste their time and the BULL's space by writing more on the subject? Their return to it only proves that they themselves are conscious of having hitherto failed to effect their object. With all their pains, they find they have not yet done enough; and accordingly the same persons, under different signatures, attempt (to the great edification no doubt of an already-weary community) to go over the beaten ground again! But if their first efforts, while the curiosity and interest of their readers kept pace with their own zeal and assiduity, failed to complete their work, it is too late now to hope for success. Their ravings are now felt to be an Idiot's tale, full of sound and fury, signifying nothing!

The Public, who remember that a Criminal Information was instituted against us last year, for venturing to discuss the merits of a question then before the Court, very naturally ask how it happens in this Land of Impartial Justice, that our Opponent can go on day after day, week after week, and month after month—pleading one side of a case actually pending, and even distorting facts to warp the judgements of men upon the points yet to be decided? They may well ask such a question:—but it is more easy to ask than to answer it. They draw their inferences however, from this contrast between the two cases, and form their own judgements as to its cause.

Not the least remarkable of the absurdities into which these "FRIENDS" have run, is the following: A case was placed before the Public, on which every individual of that Public had an undoubted right to pass his opinion, judging from the evidence before him. To those who confined themselves to the expression of that opinion, no blame can be attached. The evidence before the world being, however, of a nature highly favorable to the party

accused, an unknown individual comes forward as a "FRIEND or MR. BANKS," and without reference to the evidence already produced, pledges himself to disclose a scene of iniquity and falsehood which should make every honorable man shudder, and prove that the Accused had artfully duped the whole of the Indian community. He is invited to redeem his pledge. He tries every method to effect this, but having nothing to disclose but what the world already knew, he fails in his first attempt. Taunted with this, he gathers around him other "FRIENDS" of the same stamp as himself, and by the help of pretended documents, fabricated stories, allusions to damning proofs, threats of more disclosures, &c. &c. prevails on many to believe that such documents and proofs really exist. The individuals who pretend to possess them are invited to the House of the Accused, to meet him face to face, that the accuracy of such pretended proofs may be examined; at the same time that he offers to produce all the papers with which he proposes to confront them. They are either ashamed or afraid, and fail to appear. Their names are then asked of the Editor of the Paper in which they wrote, that they may be addressed individually, and each offered the means of proving what he had advanced. Shame or fear still operates, and their names are refused: though if their work had been an honorable one, and their proofs forthcoming, as honest men they could not have shrunk from enquiry. A Proceeding at Law is therefore the only means by which it can be ascertained whether such proofs of criminality against the Accused exist or not. He proceeds against the only persons he can pursue (since the real culprits shrink from their responsibility and are either ashamed or afraid to avow themselves): but instead of proceeding criminally, as he might have done, and thus have shut out all attempts at proof, he proceeds civilly, expressly and avowedly for the purpose of giving them an opportunity to justify all they have said, by proving its truth before a public tribunal, where truth is never rejected, and where sophistry and evasion cannot set it aside. The day of trial approaches; and their own Counsel admits their being unprepared to establish what they have advanced, by asking more time, in order to bring evidence and witnesses from Bombay, Egypt, and Syria, to prove their case! but being told, that he who calumniates another, imputing to him every species of dishonesty, and vaunting the fullness of his proofs, ought to have those proofs in his hands, and should not first blast a man's character, and then pretend to send to the other extremity of the globe in the hope of being able to establish his case. If such a plea were once admitted, it would be easy to calumniate the purest man in India with impunity for two or three years, without leaving him the power of redress, since it would only be to lay the scene of his pretended delinquency in some remote and inaccessible country, and pray for time to send and get evidence from thence, during which the accused individual might perhaps sink into the grave with every possible odium heaped on his memory. The attempt, however, to set up such a plea as this, was defeated in its first effort, and accordingly all pretension of proof was abandoned!!—What would have been the natural result of such an issue as this, in any country but India?—Most certainly this: that all who had for a moment been deluded by the calumniators into a belief of the guilt of the Accused, would have sought with eagerness every means of testifying their sense of the imposition practiced on them; while the Accusers, who had gone on boasting from day to day as the Trial approached, yet shrunk from their pledges in the hour of need, would have been condemned with one accordant voice to that infamy to which their secret association and dastardly desertion so richly entitled them. In India, however, tho' this has been generally it has not been universally the result. Some are ashamed, but many more are afraid to avow even that which they feel and think; when they look around them and see that opinions cannot always be expressed without danger to their pecuniary interests, and that silence if not hypocrisy is absolutely necessary to save themselves from evils of a far greater magnitude! Hundreds who read this will yield their secret and silent assent to its truth.

The agitators of all this hatred and persecution are evidently alarmed for the result as it may affect their cause in the Court;

on that, however, we have said and shall say nothing: it is before an upright Judge and a Public Tribunal, where we are satisfied to leave it. But this is at least worthy of remark, namely, that the FRIEND OF MR. BANKS and all his party are the professed enemies of a Free Press, and have omitted no opportunity to express their conviction that in no country ought the Press to be free from the restraint of Law, while in this it ought to be brought within much narrower bounds, and restricted in such a manner as to curb entirely all possibility of licentiousness. Whenever we have discussed the public conduct of public men, we have always admitted that the Press should be responsible to Law (but to that only) for all abuses of its power: and we act consistently in seeking redress ourselves from that Law, for abuses which it will not tolerate. Because we have done this, however, these "FRIENDS" who are such enemies to a Free Press in any hands but their own, and who contend that in India it ought to be especially restrained by extra-judicial powers, turn round upon their heels, and cry out against any restraint at all, even that of the Law! It will hardly be believed, unless we quote the words in which it is written: but this, we shall do. At the close of a long Letter, going over for the fiftieth time the whole story that was discussed so long ago as August last, the writer says,—

"If therefore the line of conduct which he (Mr. Buckingham) is now pursuing (that of compelling his Accusers to prove in a Court of Justice the truth of their calumnies) be sanctioned, it must be acknowledged by every man of common sense that in silence alone is safety to be found: and the Press, as an instrument for maintaining integrity and exposing knavery and falsehood, must, in India at least, cease from that day (the day of their condemnation for publishing calumnies which they cannot prove) to have any power or influence"—that is—being translated—"Unless we, who are unknown to the world, and withhold our names even from the object of our calumny, are allowed to say what we please, whether true or false, fair or defamatory, without being compelled by those we calumniate to establish what we advance by proving its truth before a Court of Justice, there is an end to the labours of our Press—other writers may find their safety in confining themselves to fairness in argument and accuracy in facts; but for us, if we are to be bound by such rules, our only hope of safety is in silence—We can expose knavery and falsehood enough, if we are not obliged to prove the truth of what we say; but if a Court of Justice is to have any thing to do with the examination of our proofs, from that day, in India at least—our Press must cease to have any power or influence. We must be free to say what we please, without judicial investigation, or there is an end to our vocation for ever!"

This is the latest doctrine which the BULL contains on the subject of the Indian Press; and it is apparently put forth in the laboured stile of the FRIEND OF BANKS, under a new signature, that of "A PLEADER FOR PUBLIC RIGHTS." If these are the rights for which he pleads—the power to select any victim to break on the wheel, without a responsibility to the common tribunal of his country, for the exercise of this power,—he will plead in vain,—for even India will regard such a doctrine with just abhorrence; and England would stamp it with every possible mark of shame and execration.

CALCUTTA BAZAR RATES, FEBRUARY 11, 1823.

	BUY	SELL
Remittable Loans,	Rs. 28 0	27 0
Unremittable ditto,	0 0	0 0
Bills of Exchange on the Court of Directors, for } 12 Months, dated 20th of June 1822,	25 0	24 0
Ditto, for 18 Months, dated 20th of April, 1822,	25 0	24 0
Bank Shares,	6300 0	6600 0
Spanish Dollars, per 100,	206 0	205 8
Notes of Good Houses, for 6 Months, bearing Interest, at 8 per cent.		
Government Bills, Discount,		at 3-8 per cent.
Loans on Deposit of Company's Paper, for 1 to 3 months, at 4 per cent.		

Monopoly of Libelling.

To the Editor of the Journal.

SIR,

After so many signal victories, or rather a continued march of triumph over your malignant and implacable enemies the BULLITES, any fresh success may afford you little pleasure: but it must be mortifying to them as well as highly gratifying to your friends to see the "Men in Masks," after all their blustering and after having completely exhausted their quivers of poisoned arrows, confessing their inability to meet you in the fair field of argument, and in bitterness of heart owning your superiority. Such is the import of the sentence, I shall quote from the Third Essay of "A PLEADER FOR PUBLIC RIGHTS" in the BULL of this morning, with which he winds up his long and laboured pleading for the Editor and Proprietors, who are wisely (if not artfully) allowing their own Paper to become the Champion of their cause, in order to bias the minds of men before the matter come into Court. After striving by many arguments to show the injustice of their being called upon to substantiate in a Court of Justice the charges made against you, and of your generously affording them an opportunity of proving their truth, if they can, their Special "PLEADER" concludes:

"If therefore the line of conduct which he (the CALCUTTA JOURNALIST) is pursuing is to be sanctioned, it must be acknowledged by every man of common sense, that in silence alone is safety to be found; and the Press as an instrument for maintaining integrity; and exposing knavery and falsehood, must in India at least cease from that day to have any power or influence."

Let it only be remembered that this emanates from the party who are such strenuous advocates for fettering the Press! That they are continually imprecating Restrictions to curb your pen, because they pretend to think the salutary restraints of Law insufficient. Now, when these silken cords of justice, a little while ago deemed so brittle when proposed for you, are to be applied to themselves, they rear out as if they were to be bound with a cable: they sicken at the prospect and exclaim—"in silence alone is safety to be found!"

If a Pugilist would enter the ring only on condition, that while he used his naked fists, his antagonist should wear padded gloves "The Fancy" would be at no less to guess who felt himself the better man; so the Indian Public will easily estimate the character of your Opponents, who would have you bound in the strait jacket of Censorship, with the sword of arbitrary power continually suspended over your head, and on the contrary for themselves (magnanimous souls!) they do not aspire to be put exactly on the same footing as public writers in England (your presumptuous and never-to-be-forgiven wish: No! they modestly request to be released from the restraints of Law altogether! otherwise the Press, say they, (by which they can only mean the Tauric Press) must from that day lose its power and influence! A more humiliating confession cannot be found in the annals of controversy; and it would be impossible in the History of the Press to find again a Paper so mean and so base as to confess that it only hoped for continued existence by the unrestrained license of libelling private character. Surely, even in this country, no very great portion of the Public will suffer themselves to be insulted so far as to allow it to be supposed they would support a Paper which wishes to obtain for itself this monopoly in licentiousness, while it condemns every other for exercising the smallest degree of freedom.

"It is evident" they formerly observed "that Iniquity and Falsehood must rest somewhere." I shall conclude, then, by submitting this plain question to all Men of Common Sense: Whether is it most likely to rest with those who wish to enjoy the right of libelling without the restraint of law; or with him who has always manifested his anxiety to submit his writings to the verdict of twelve honest men and the laws of his country?

Tuesday, Feb. 11.

A MAN OF COMMON SENSE.

Stud Department.

To the Editor of the Journal.

SIR,

I agree with CAROLUS that "a good Stallion or Bull is of the first and last importance in a Government, as in other Studs;" especially if the Horse should be made a Consul, or the Bull a Reader of Moral Lessons. I also think with him that "the more not of running at large for three or four years will do nothing towards the cure of constitutional defects in form or temper." They manage these things better at Hissar, and I wish we could take a leaf out of the excellent Superintendent's book as to the proper treatment of one who roams about Calcutta dedicated to the Demons of Slavery and Slander. It is true he is now in pound for his many damage-faisant enormities, and an action *de Taure replegiando* is to be tied next month. Much may be expected from the discussion of his history and character which will then take place. In the mean time the owners set up a monstrous pretension, that he ought to be exempt from any such judicial proceeding, and insist that from the day that he, the BULL aforesaid, is to be so irreverently overhauled, the grand "instrument for maintaining integrity, and exposing knavery and falsehood, must, in India at least, cease to have any power or influence." This BULL, they say, is to go unmuzzled, and at large; no body, not even those who administer the King's Justice, no Judge nor Jury is to touch a hair of his head or of his tail, (till he is dead, and then twelve good and lawful men are to make an inquisition, touching that matter) and, by way of reciprocity, all other cattle are to be muzzled and tied up. This, Sir, is a short state of the Question, between the BULL party and the Public.

SIMPLEX.

Lexicography.

To the Editor of the Journal.

SIR,

This is certainly an age of improvement in Literature, far surpassing any former period recorded in History. By means of the Press, the march of intellect goes forward with a gigantic speed.

What our grave Moralist and consummate Lexicographer, the celebrated Dr. Johnson, had no idea of, it is reserved for our sapient heads to discover! In his Dictionary no less than six definitions are appended to the word "*personal*;" but now a seventh may be safely added,—and this too upon the high and undisputed authority of JOHN BULL IN THE EAST.

If, Sir, a generous Public will encourage me with their patronage, I shall undertake to send out an improved edition of Johnson's Dictionary for the benefit of the learned, introducing into it among other things an important emendation under the word "*personality*" in the adjective form. It would be needless for me to quote what may be already found in the present edition of Johnson's Dictionary. Suffice it to say, that the word "*personal*" bears six different meanings, as I have above observed. The seventh will be as follows:—

7.—Where there is no ground to charge inability to perform necessary duties.—JOHN BULL.

Admirable! Here is a glorious triumph for us! What will the people in the West think of our penetrative powers under a tropical sun? More of this, when the intelligence reaches Europe.

I am, Sir, your obedient Servant,

February 11, 1823.

A FRIEND TO IMPROVEMENT.

BANK OF BENGAL RATES, FEBRUARY 11, 1823.

Private Bills and Acceptances of Good Houses, discounted at.....	4 per cent.
Government and Salary Bills.....	3 9 per cent.
Loans on Deposit of Government Securities, for fixed periods, from 2 to 3 months.....	4 per cent.
Ditto for less than two months, or at open date.....	5 per cent.

Lieutenant Adam White.

To the Editor of the Journal.

SIR,

To attempt the vindication of any thing obviously wrong, is both absurd and disengenuous. This remark applies with full force to your Correspondent AXOLUS, who has set up an impotent defence of Lieutenant White, on a certain passage of whose Work I lately commented with merited severity. I appeal to any person of common sense who has perused the paragraph in question, whether Lieutenant White, has not endeavoured, in the most unequivocal manner that language admits, to place all those East Indians who have not been educated in Europe, in the most contemptible point of view. If any "attentive and candid Reader of his Book," will satisfactorily explain that the passage is susceptible of a more favourable construction, *ille erit mihi magnus Apollo*. But if my conception of it be acknowledged to be accurate, then every person of candor and impartiality who knows the statement of Lieutenant White to be unfounded in fact, will not hesitate to pronounce that it is alike discreditable to his head and heart, and will concur in the justice of the reproach which an honest indignation led me to cast on him.

The best evidence which can be adduced in favor of the efficacy of an education received in India, is the example of those who without ever having quitted it, are enabled by their talents and qualifications to hold situations of great trust and responsibility in some of the Departments of Government, and to pursue other avocations in which their intelligence, literary attainments and probity shine equally conspicuous. I assert, therefore, regardless of any contradiction founded in prejudice or vanity, that the existing means of education in this country preclude the necessity of sending children to Europe, and whilst facts speak eloquently on my side of the question, the calumny of Lieutenant White, must be regardless as—*vox et præterea nihil*, an empty and unavailing sound.

February 7, 1823.

Bombay.

CIVIS.

Bombay, January 25, 1823.—We have copied a paragraph from the GAZETTE respecting a rumor of war between Russia and Great Britain; the following extract of a letter from Bassorah, dated the 5th Dec. indicates war as apparently inevitable between Great Britain and Turkey.

"Our last news from Constantinople mention that British ships were not allowed to pass the Dardanelles; that a firman had been promulgated directing all British property to be burnt; and that some had actually been destroyed. A war was thought to be inevitable."

By a dispatch received by a country boat from the Gulf, we are sorry to hear that the report of the destruction of Aleppo and Antioch, by earthquakes in August and September last, is confirmed. The same dispatch also mentions that the Turks had seized and burnt some British ships, but there seems reason to suppose that they were detected conveying arms to the Greeks.

The Hon'ble the Governor and his party are expected to return here by the 30th inst.

Sir Ralph Rice, Recorder of Penang, arrived here yesterday morning in the H. C. Cruiser NAUTILUS. We understand that he intends remaining here about a fortnight, and will then proceed overland to Madras.

The CHARLES FORBES arrived at the Cape 21st Oct. and was to sail again on the 26th. The passengers, we are happy to hear, all well.

The WATERLOO, Capt. Living, will sail to-morrow for London; her packets will be closed at 5 o'clock this evening at the post office.

The SARAH, Capt. J. Thacker, having all her cargo on board, will sail positively on the first February. Letters for Europe will be received at Framjee Cowasjee's office until the 31st instant, 4 o'clock A. P.

The PHOENIX, Capt. Weynton, follows about the 4th; and the COLUMBIA about the 10th February.—*Bombay Courier*.

Births.

At Madras, on the 22d ultimo, at the house of H. PAULSEN, Esq. the Lady of Mr. POLHAM, Madras Medical Establishment, of a Son.

At Belgaum, on the 17th ultimo, the Wife of Mr. GEORGE GIBSON, Deputy Assistant Commissary of Ordnance, at Vizagapatam, of a Daughter.